

# **भारत का राजपत्र** **The Gazette of India**

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NEW DELHI, SATURDAY, NOVEMBER 13, 1965/KARTIKA 22, 1887

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed  
as a separate compilation

नोटिस

NOTICE

नीचे लिखे भारत के असाधारण राजपत्र 1 नवम्बर, 1965 तक प्रकाशित किए गये।

The undermentioned Gazettes of India Extraordinary were published up to the 1st November 1965 :—

Issue No.	No. and Date	Issued by	Subject
273	S.O. 3405, dated 26th October, 1965.	Ministry of Information & Broadcasting.	Approval of the films as specified therein.
274	S.O. 3406, dated 28th October, 1965.	Ministry of Commerce.	The Export of Cast Iron Soil Pipes (Inspection) Amendment Rules, 1965.
	S.O. 3407, dated 28th October, 1965.	Do.	Amendment in notification S.O. 2425, dated 2nd August, 1965.
275	S.O. 3408, dated 28th October, 1965.	Do.	Appointment of a body of persons for making a full investigation in to the fall of production in respect of Cotton textiles of M/s. Sodepur Cotton Mills Ltd., Sodepur.
276	S.O. 3409, dated 29th October, 1965.	Do.	Appointment of Shri G. V. Bedekar as Chairman to enquire into the affairs of the India United Mills, Bombay.

Issue No.	No. and Date	Issued by	Subject
227	एस० ओ० 3410 दिनांक 1 नवम्बर, 1965	उद्योग तथा मंत्रालय	मैसर्स हिन्दुस्तान वेहिकल्स लि०, पटना के अग्रिकुल निर्वचक श्री यू० एन० राय, को केन्द्रीय सरकार उद्योग (विकास तथा विनियमन) अधिनियम, 1951 की धारा 18ख की उपधारा (4) के अधीन निवेश बेनी है जिन का उल्लेख उसमें है।
278	S.O. 3411 dated 1st November, 1965.	Ministry of Food & Agriculture	Declaration that the Commission of Enquiry regarding certain matters connected with sugar and sugar industry shall cease to exist with effect from the 1st November, 1965.

ऊपर लिखे असाधारण गजटों की प्रतियां प्रकाशन प्रबन्धक, सिविल लाइन्स, दिल्ली के नाम मांगपत्र भेजने पर भेज दी जाएंगी। मांगपत्र प्रबन्धक के पास इन राजपत्रों के जारी होने की तारीख से 10 दिन के भीतर पहुँच जाने चाहिए।

Copies of the Gazettes Extraordinary mentioned above will be supplied on indent to the Manager of Publications, Civil Lines, Delhi. Indents should be submitted so as to reach the Manager within ten days of the date of issue of these Gazettes.

## भाग II —खण्ड 3—उपखण्ड (ii)

### PART II—Section 3—Sub-section (ii)

(रक्षा मंत्रालय को छोड़कर) भारत सरकार के मंत्रालयों और (संघ क्षेत्र प्रशासन को छोड़कर) केन्द्रिय प्राधिकरणों द्वारा जारी किए गए विधिक आदेश और अधिसूचनाएं।

Statutory orders and notifications issued by the Ministries of the Government of India (other than the Ministry of Defence) and by Central Authorities (other than the Administration of Union Territories).

### ELECTION COMMISSION, INDIA

New Delhi, the 22nd October, 1965

S. O. 3489.—In pursuance of clause (b) of sub-section (6) of section 116A of the Representation of the People Act, 1951, the Election Commission hereby publishes the judgement of the High Court of Kerala, Ernakulam given on the 15th September, 1965, on an appeal from the order dated the 25th February, 1965, of the Election Tribunal, Ernakulam.

IN THE HIGH COURT OF KERALA, ERNAKULAM.

Wednesday, the 15th September, 1965/24th Bhadra 1887.

PRESENT:

The Honourable Mr. Justice C. A. Vaidialingam.

AND

The Honourable Mr. Justice S. Volu Pillai.

ELECTION APPEAL No. 1 of 1965.

Against Election petition No. 8 of 1964 on the file of the Election Tribunal, Ernakulam.

PETITIONER.

Appellant:—

M. C. Abraham, M.L.A. (Ex), Advocate, Kottayam.

By Advocates M/s. K. Velayudhan Nair and K. J. Joseph.

**Respondents.—**Respondents. (1, 3, 4 and 5).

1. Salay Mohammed Sait, M.P. Fasia Mansion, Manthra Road, Cochin.
2. Kizhedath Damodaran, M.P., Nangakkil House, Guruvayoor.
3. N. Gopala Pillai, Jayavilasom, Attingal.
4. Annie Theyyil, Advocate, Ernakulam.

1st respondent by Advocates M/s. V. R. Krishna Iyer, K. C. Sankaran and K. M. Syed Mohammed.

This Election Appeal having been finally heard on 15th September, 1965, the Court on the same day delivered the following:—

### JUDGMENT

*Vaidialingam, J.*

This Election Appeal arises, out of an Order passed by the Election Tribunal, Ernakulam, dismissing Election Petition No. 8 of 1964, filed by the appellant, challenging the election of the first respondent to the Rajya Sabha, by the members of the Kerala Legislative Assembly. The election itself was held on 25th March, 1964.

2. Three members had to be elected by the Assembly, to the Rajya Sabha; and respondents 1 to 3 in the Election Petition, who had secured 32, 33 and 33 votes respectively, were declared duly elected, in as much as the 4th respondent in the Election Petition, got no votes whatsoever, and the 5th respondent therein got only 26 votes. The appellant, who is an elector, being a member of the Kerala Legislative Assembly, filed the Election Petition, in question, for declaring the election of the first respondent void, on the ground that certain corrupt practices had been committed by the first respondent or by others with his consent; and that these corrupt practices have materially affected the result of the election. There was, also a further prayer that the votes cast by the elected members on 25th March, 1964, should be recounted and that the 5th respondent should be declared duly elected to the Rajya Sabha.

3. Broadly speaking, the allegations of corrupt practices, made in the Election Petition, can be grouped under three heads:—(a) That respondent 1, and others, with his consent, had paid money to the Praja Socialist Party and its members and have paid illegal gratification to the other members of the Assembly, with a view to induce them to exercise their votes in favour of the first respondent. (2) That the first respondent, and others, with his consent, had hired or procured motor cars for the conveyance of electors to and from the polling station, and (3) That at the counting of votes, a number of invalid votes were treated as valid, and that votes which had been cast in favour of the 5th respondent, had been taken into account, in favour of the first respondent.

4. These were the allegations of corrupt practices made, in the Election Petition. We have also referred to the reliefs that had been asked for, which were to the effect that the election of the first respondent is to be declared void, that the 5th respondent is to be declared duly elected and that there should be recount of votes.

5. The Election Petition, which is dated the 4th May, 1964, was actually filed before the Election Commission of India, on the 6th May, 1964.

6. The first respondent entered appearance, and pointed out that the various allegations of corrupt practices, referred to, in the Election Petition were too vague and general so as to enable him to effectively controvert those allegations and contest the claim made by the election petitioner. Therefore the first respondent, filed, on 21st July, 1964 I.A. No. 2 of 1964 under Section 83 of the Representation of the People Act, 1951, hereinafter to be referred to as the Act. In that application, the first respondent prayed for directing the appellant to give precise particulars regarding the various allegations of corrupt practices set out in the Election Petition. For the purpose of this appeal, it is only necessary to refer to two specific averments made in that application.

7. The first averment to be noticed is what is referred to in paragraph 2 of the said petition, wherein, after repudiating the allegation that any money was paid to the party concerned, the first respondent wanted that particulars, as to whom, and at what time and what amount was paid, as alleged in the Election Petition. Similarly, in paragraph 5 of the application, the first respondent repudiates the allegation that he or anybody with his consent had hired or procured vehicles for the purpose of transporting voters. Later, in the said paragraph,

the first respondent requires that the names of the persons, who hired or procured cars, as well as the electors, who were so conveyed, and particulars of such cars be given by the appellant.

8. There is an order passed by the Election Tribunal on 27th July, 1964, directing the appellant to furnish the various details asked for by the first respondent in I.A. 2 of 1964.

9. Accordingly, the appellant filed, on 30th July, 1964, a supplementary affidavit, wherein he has categorically stated in paragraph 4, that the first respondent has paid or caused to be paid a sum of Rs. 15,000/- to the Praja Socialist Party a few days before 25th March, 1964. It is further averred therein that the said payment was for the purpose of securing, in favour of the first respondent, the votes of the Praja Socialist Party members in the Kerala Legislative Assembly. In paragraph 5 of the supplementary affidavit, the appellant had stated that respondent No. 1 had hired or procured taxi cars, one such car being, K.L.A. 300, for conveying a voter Shri K. Balakrishna Menon, M.L.A. from Wadakkancherry, to the polling booth at Trivandrum and back from Trivandrum to Wadakkancherry, on 25th March, 1964. Pausing here, for a minute, it may be stated that Shri Balakrishna Menon, referred to above, is P.W. 6.

10. Therefore it will be seen that the specific corrupt practices pleaded by the appellant, and on the basis of which, ultimately he proceeded to trial in the election petition, were two-fold, namely:—(1) payment of Rs. 15,000 by the first respondent to the Praja Socialist Party for the purpose of securing, in his favour, the votes of members of that party in the Assembly, and (2) the conveyance provided by the first respondent to P.W. 6 from Wadakkancherry to Trivandrum and back on 25th March, 1964.

11. It is also seen that on 3rd August, 1964, the first respondent filed I.A. No. 3 of 1964 for leave to serve interrogatories on the appellant. It will be seen, that so far as the two aspects, with which we are now concerned, in Annexure II, the first respondent desired information regarding the payment of money to any member of the Assembly and also as to whom the sum of Rs. 15,000/- was paid. That relates to what is mentioned in paragraph 4 of the supplementary affidavit. In Annexure III of this application, the first respondent similarly asks for further particulars regarding the cars, their number and other details regarding those vehicles, which are alleged to have been hired or procured; and he also asks for information regarding the names of electors so conveyed in those vehicles.

12. To this application, the appellant, filed an answer on 31st August, 1964. Regarding the points referred to in Annexure II, the answer was that the amount was paid to the office bearers of the parliamentary party of the Praja Socialist Party and that further details are available with the party itself. Regarding the particulars referred to in Annexure III, the answer was that voters were conveyed, from their respective place of residence and one voter from Wadakkancherry, which has been mentioned in the supplementary affidavit. The reference to the voter, who was transported from Wadakkancherry, obviously relates to the averments made in paragraph 5 of the supplementary affidavit. Therefore it will be seen that even when an application, to answer certain interrogatories was filed by the first respondent, the appellant has stood by the definite averments made by him in paragraph 4 and 5 of the supplementary affidavit, filed by him on 30th July, 1964.

13. It will also be seen from the order of the Election Tribunal, that there was a further application filed on 3rd October, 1964, by the first respondent for striking out certain allegation in the Election petition; but ultimately the Tribunal has passed an order on 19th October, 1964, that the trial of the Election Petition, need be conducted only in respect of the two corrupt practices referred to in paragraphs 4 and 5 of the supplementary affidavit. This statement in the order, has not been challenged before us. In consequence, the Tribunal also recast the issues; and the issues that were actually set for trial are contained in paragraph 9 of its order.

14. The main issues which had been considered by the Election Tribunal, and in respect of which findings have been recorded as against the appellant, and which were canvassed in the appeal, relate to matters covered by issues I and 4. So far as issues 2 and 3 are concerned, the Tribunal has stated that those allegations are too general, to deserve any special consideration; and it is also stated by the Tribunal, that those issues were not pursued by the appellant. Therefore, findings have been recorded, on those issues as against the appellant. Issue No. 5 related to the question as to whether any invalid votes has been taken to account in favour of the first respondent and as to whether any votes cast in

favour of the 5th respondent had been counted in favour of the first respondent. So far as that issue is concerned, the Election Tribunal, has stated that the said point was not pressed by the appellant. Therefore the two main aspects on which parties proceeded to trial, were those covered by issues 1 and 4. The question as to whether the election of respondent 1 was void, will depend upon the findings recorded on the major issues set forth for trial.

15. So far as the allegation that a sum of Rs. 15,000/- was paid by the first respondent to the Praja Socialist Party of the Kerala Legislative Assembly is concerned, the Election Tribunal has adverted to the evidence of various witnesses, who had been summoned in this case and examined on the side of the appellant. P.W. 2 was the Chairman of the Praja Socialist Party and P.W. 4 was the Treasurer of that Party. P.W. 15 is the leader of that Party in the Kerala Assembly. In particular, the appellant also placed considerable reliance upon a copy of a letter Ext. X(1) produced by the 5th respondent, who has given evidence as P.W. 16. According to the appellant, that is a copy of the letter written on 11th April, 1964, that is, a few days after the elections have taken place, by P.W. 3, who is the Deputy Leader of the Praja Socialist Party in the Assembly, to P.W. 15, who is the leader of the party. The circumstances, under which the copy, Ext. X(1) came to be obtained, was spoken to by the 5th respondent, as P.W. 16. Considerable reliance was placed upon this letter, to establish that the Praja Socialist Party, has enriched itself just, on the eve of the elections; so the Election Tribunal was desired to draw an inference, that the first respondent, who had absolutely no political backing whatsoever, but nevertheless has come out successful in the election with the support of the Praja Socialist Party, could have succeeded, only by illegal gratification being paid to that party, by the first respondent or by others, with his consent.

16. In that connexion, there is another aspect that has to be referred to. According to P.W. 16, she met P.W. 15 in the house of one P.I. Joseph, a few days, before the last day for filing an election petition; and that in the presence of P.I. Joseph, P.W. 15 is stated to have shown the original of the letter, stated to have written by P.W. 3 to him. The substance of the letter Ext. X(1), is extracted in the judgment of the Election Tribunal; and from that it will be seen that P.W. 3 has stated that times are very favourable for strengthening the Praja Socialist Party and that he also has come to know that the party has received certain amount. In that letter P.W. 3 asks for his quota, out of the amount, to be paid over to him and that if this is done, he will be in a position to enlist about thousand members for the party. There is also an apprehension voiced in that letter to the effect, that if the share is not paid and the payment is put off, the whole amount will be lost by somebody devoting it for other purpose. It is the further evidence of P.W. 16, that P.W. 15, to whom the original of Ext. X(1) is stated to have been written by P.W. 3, permitted her to take a copy of the said letter, and that the original was handed over to Mr. P. I. Joseph, to be delivered to the 5th respondent, if she pays a sum of Rs. 1,000/-.

17. The appellant no doubt appears to have taken steps to summon P. I. Joseph for the purpose of giving evidence in this case to speak to, what took place, according to P.W. 16, between herself and P.W. 15 in the presence of the party and also to produce the original of Ext. X(1). But it is seen, that notwithstanding the fact that summon was served and that the party also agreed to appear at any time after 20th November, 1964, still on 24th November, 1964, an application was filed, on behalf of that witness stating that he has gone to Bombay and that he should be absolved from appearing in the case.

18. I.A. 1 of 1965 was filed by the appellant, setting out the evidence, that is likely to be given by that witness and stating, that the witness, in question, is at Bombay to avoid process of the Tribunal so as not to appear before the Tribunal to give evidence. Therefore the appellant requested the court to take steps for prosecuting the witness under Section 174 of the Indian Penal Code.

19. But the point to be noted in that application is, that so far as we could see, there is no averment made by the appellant, that the said party is purposefully evading the witness box, with a view to help the opposite party. No such allegation is found in the application. No doubt the Tribunal passed an order, levying a fine of Rs. 500/- on the witness concerned; and thus this chapter appears to have been closed.

20. The Election Tribunal has considered the evidence of P.Ws. 2, 3, 4 and 15 and has come to the conclusion that the writing of the letter, by P.W. 3 to P.W. 15, the copy of which is claimed to be Ext. X(1), is not established. In the alternative, the Election Tribunal is also of the view, that there is absolutely no reference at all in that letter, assuming it to be true, that any amount was

paid by the first respondent or by anybody else, with his consent, to the Praja Socialist Party. Therefore ultimately the Election Tribunal comes to the conclusion, that a finding on issue 1 will have to be recorded, as against the appellant.

21. The Election Tribunal then considered the second allegation of corrupt practice; viz., the carrying of P.W. 6 in a taxi car, K.L.A. 300, hired or procured by the first respondent or his agent from Wadakkancherry to the polling station and back. So far as that allegation is concerned, there is no controversy, that no material evidence has been adduced by the appellant, to show that the said taxi carried P.W. 6 from Wadakkancherry to the polling station. No doubt, evidence has been adduced to show that the said witness, was transported from Trivandrum to Wadakkancherry, in the said taxi.

22. The case of the appellant, as we have already stated, and as set up in the supplementary affidavit on this aspect is, that the first respondent hired or procured the car, K.L.A. 300 for conveying P.W. 6 from Wadakkancherry to Trivandrum and back, on the date of the election. In this connection the appellant has examined P.Ws. 6, 8 to 11, 13 and 15. P.W. 6 is the elector, who is stated to have been transported and he is a member of the Assembly. P.Ws. 8 and 9 are the two Police Officers who had to come on the scene, in view of the fact that the said car was involved in an accident, on that day, near Pudukad. P.W. 10 is also stated to be a person, who was present at the scene of accident, and P.W. 13 is the driver of the said taxi. P.W. 15, as we have already referred to, is the leader of the Praja Socialist Party, in the Kerala Legislative Assembly.

23. The appellant's case is that the said car was hired or procured by the first respondent for the purpose of transporting P.W. 6 from Trivandrum to Wadakkancherry. The presence of the first respondent, at the time, when the car is stated to have been engaged by P.W. 15, is sought to be established by the evidence of P.W. 13, the driver of the taxi, supported according to the appellant, as that evidence is, by that of P.Ws. 8, 9 and 10. In this connection, the appellant has also placed reliance upon a chit, which P.W. 6 had given to the taxi driver, Ext. P. 4 dated the 25th March, 1964. In that memo, which is addressed to P.W. 15 at Trivandrum, P.W. 6 has referred to the accident at Pudukad by reason of a child suddenly crossing the road and the police intervening. He has assured the party concerned, that the police are not taking any case, but states that as desired by the Inspector and others he has paid a sum of Rs. 25/- to the parents of the child. P.W. 6 also refers to the fact that the driver, P.W. 13, has taken two sums of Rs. 10/- each; and ultimately he has stated that a total sum of Rs. 45/- has been paid by him, to the driver and the memo Ext. P-4 is given, as the driver was very particular about getting such a memo. That slip is, no doubt, addressed to P.W. 15 and P.W. 6 has also accepted that Ext. P-4 was written by him, though he has stated that the endorsement regarding the mileage etc. contained in Ext. P-4, is not in his handwriting.

24. The Election Tribunal, in this connection, refers to the evidence of the various witnesses and in particular refers to the evidence of taxi driver P.W. 13. The Election Tribunal is of the view, that from the evidence of P.W. 13, it is clear that he does not know the first respondent at all. Therefore even assuming that he had given any information to the police Officers or to P.Ws. 8 and 9 or to a bystander, P.W. 10, at the time of the accident, that the car was engaged for transporting P.W. 6, in connection with the election of the first respondent, and that it has been hired by P.W. 15 that evidence cannot be given undue importance, is the view of the Tribunal.

25. No doubt, the Election Tribunal is not very much satisfied with the manner in which P.W. 6 has given evidence. It is also of the view, that even if the evidence adduced on the side of the appellant is accepted, it will only mean that P.W. 15, had some part in arranging a transport for P.W. 6 and that by itself, will not in any manner enable the Election Tribunal, to accept the plea of a corrupt practice alleged as against the first respondent. Therefore ultimately, the Election Tribunal, on this aspect, has also recorded a finding as against the appellant. Therefore these two allegations of corrupt practices, on the basis of which the election of the first respondent was sought to be set aside, were held not to be established; and in consequence, the Election Petition itself was dismissed.

26. Mr. Velayudhan Nair, learned counsel for the appellant, has very strenuously urged:—(1) that the finding of the Election Tribunal recorded as against the appellant, in respect of the allegation of the payment of Rs. 15000/- to the Praja

Socialist Party by the first respondent is not justified by the evidence on record. The second contention of the learned counsel is, that the further finding of the Election Tribunal that the first respondent has not hired or procured the vehicle, in question, for transporting P.W. 6 from Trivandrum to Wadakkancherry is again not justified by the evidence. Learned counsel quite naturally referred us to the circumstances that his client has been considerably handicapped by Mr. P. I. Joseph, who, according to him, is the custodian of the original of Ext. X(1), not appearing in court, in response to the summons. Learned counsel urged that if the said witness had appeared, as he had agreed to on a prior occasion, and given evidence, he would have corroborated the evidence of P.W. 16, regarding the circumstances under which the copy of Ext. X(1) was allowed to be taken by her by P.W. 15, and the original letter also will be before court.

27. In this connection, learned counsel pointed out that if the original of Ext. X(1) had been made available before the court, his client would have been in a better position to corner P.W. 3, and elicit, as to whether the original letter was not written by him. Therefore, learned counsel pointed out that the non-availability of Mr. P. I. Joseph, for the purpose of giving evidence, has put his client, under a serious disadvantage.

28. Learned counsel also urged that the Election Tribunal has not, in this connection adverted to the evidence of P.W. 16, namely the 5th respondent in the Election petition. According to learned counsel, she has given a very straightforward evidence regarding the circumstances, under which she met P.W. 15 at the residence of Mr. P. I. Joseph, as well as to the handing over of the original of Ext. X(1) by P.W. 15 to P. I. Joseph. Learned counsel further urged that if her evidence is accepted, it will be clearly shown that the allegation of the appellant, regarding the payment of Rs. 15000/- to the Praja Socialist Party by the first respondent for the purpose of obtaining the votes of its members in the Assembly, is highly probable. Learned counsel also urged that the mere fact that P.Ws. 2 and 4, namely the Chairman and Treasurer of the Praja Socialist Party have spoken to the fact that no amounts were received from the first respondent, as seen from the books of account, is of no consequence, because P.W. 3 would have been forced to explain the source for the amount, referred to by him, in his letter.

29. Learned counsel also pointed out that the second allegation of corrupt practice, namely providing of a taxi K.L.A. 300 is amply established by the direct evidence furnished by P.W. 6 and P.W. 13. Learned counsel also pointed out that the presence of the first respondent, at the time when the taxi was engaged by P.W. 15, and to the first respondent paying certain amounts into the hands of P.W. 15, which in turn was paid by the latter to P.W. 13 towards the part payment of the hire charges, is amply corroborated by the statements made by P.W. 13 during the course of the day itself, to very responsible officers like P.Ws. 8 and 9. Learned counsel also pointed out that the Election Tribunal itself is inclined to hold that P.W. 6 and P.W. 15 are not giving out the entire truth, regarding the circumstances, under which the taxi, in question, was engaged for transporting P.W. 6 from Trivandrum to Wadakkancherry. These aspects, according to learned counsel, have not been properly appreciated or considered by the Election Tribunal.

30. In this connection, Mr. Velayudhan Nair, Learned counsel for the appellant pointed out that the Election Tribunal has committed two serious mistakes, namely (1) when it has attributed to P.W. 13 certain statements which are not spoken to by him in his evidence and (2) when it has proceeded on the basis that the mere fact that P.W. 15, the Leader of the Praja Socialist Party, which party was admittedly supporting the candidature of the first respondent, has given some amounts to the taxi, in question, or has engaged it for transporting P.W. 6 is of no consequence, unless the first respondent himself has directly hired or procured the taxi.

31. The first error, according to the learned counsel is that P.W. 13 has nowhere stated in evidence that he does not know the first respondent, whereas the Election Tribunal has proceeded on the basis that the witness has spoken to that effect and that the witness knew, who the first respondent was only, when P.W. 6 has pointed out that person. The Second error according to learned counsel is that when evidence has been adduced to show that the Praja Socialist Party was supporting the candidature of the first respondent and the leader of that party, namely P.W. 15, on behalf of the party, engaged the taxi in question, for transporting P.W. 6, the Tribunal is of the opinion that it is of no consequence. According to counsel, the Tribunal should have held that P.W. 15, was acting with the permission or consent of the first respondent, especially when

evidence, regarding the presence of the first respondent, at the time has also been let in.

32. Therefore learned counsel urged that once the Election Tribunal has satisfied itself that in the particular vehicle in question, P.W. 6, was taken from Trivandrum to Wadakkancherry and it was also satisfied that the full taxi charges had not been paid by P.W. 6, the only inference is, that the balance of the charges had been paid by P.W. 15, to whom the memo Ext. P4 was sent, P.W. 15, the learned counsel points out was acting for the first respondent. In such a case, it is clear that the engaging of the taxi, and the payment of the hire was all with the consent of the first respondent, and that will certainly amount to first respondent being guilty of a corrupt practice under the Act. On all these grounds, learned counsel pointed out that the findings recorded by the Election Tribunal on these two important aspects, should not be accepted by this Court.

33. Mr. V. R. Krishna Iyer, learned counsel for the first respondent on the other hand pointed out that in the Election Petition as originally filed, excepting making very bold and general allegations of payment of money or arranging transport, no particulars whatsoever had been given by the appellant. The evidence of P.W. 16 and of the appellant as P.W. 1 will clearly show that the latter was fully aware of these two specific acts, on which he ultimately went to trial. Nevertheless, he has not chosen to refer to either Ex. X(I) or to Ex. P 4 in the original application. It is only at a later stage, when the appellant was pressed to give particulars, that he specifically took a stand on these two aspects by filing a supplementary affidavit on 30th July 1964. Though Ex. P4 in purported to have been addressed to P.W. 15, and notwithstanding that P.W. 13 has spoken to the said memo having been delivered to P.W. 15 there is absolutely nothing in evidence, to show as to how exactly the appellant came to be in possession of that document which was put to P.W. 6, when he was in the witness-box. The case of the appellant, regarding the payment of Rs. 15,000/- to the Praja Socialist Party, which is one allegation of corrupt practice is absolutely false; and the learned counsel pointed out that neither the evidence of P.W. 16 nor the acceptance of Ex. X(I) can lead to the conclusion that any amount has been paid by the first respondent, to the Praja Socialist Party as alleged. The evidence of P.Ws. 8 to 11 has been rightly rejected by the Election Tribunal inasmuch as that Tribunal was not proposed to act on the testimony of P.W. 13.

34. The appellant cannot be permitted to raise an additional ground of attack as against the order of the Election Tribunal by urging that P.W. 15 has been acting as the agent of the first respondent in the election which took place on 28th March 1964. Quite naturally the learned counsel in this connection referred us to the specific averment made in paragraph 5 of the supplementary affidavit filed on 30th July 1964, wherein it has been stated that it was the first respondent who has hired or procured taxi for conveying P.W. 6. Therefore, the appellant, having set up such a specific case, cannot now be allowed to resile from that position and attempt to place reliance on the fact that P.W. 15, who may have engaged a taxi, must be considered to be the agent of the first respondent. The presence of the first respondent was sought to be established by the evidence of P.W. 13 and that evidence has not been accepted by the Election Tribunal. If so, the learned counsel urged that there is absolutely no acceptable evidence on the basis of which, it can be held, that the first respondent is guilty of the second allegation of corrupt practice. The learned counsel therefore urged that the findings recorded by the Election Tribunal, on both these aspects, are perfectly justified and are supported by the evidence on record.

35. We have considered the various aspects that have been placed before us by Mr. K. Velayudhan Nair, learned counsel for the appellant and by Mr. V. R. Krishna Iyer, learned counsel for the first respondent. Before we advert to the various items of material evidence for the purpose of considering the correctness or otherwise of the findings reported by the Election Tribunal, it is necessary to bear in mind the principle that is to be adopted, in considering an allegation of corrupt practice.

36. It has been laid down and that position is not challenged that charges of corrupt practice are quasi criminal in character and the allegations in respect of that practice must be very clear and precise and must also be proved by evidence of a conclusive nature. This is emphasised, in view of the fact that penal consequences flow from a disqualification, arising out of a finding, that a corrupt practice has been committed by a party.

37. In this particular case, it is also necessary that we have to bear in mind another aspect, namely, that notwithstanding that P.W. 1 claims to have obtained



knowledge of these two acts of corrupt practices, on the basis of which he wants the election of the first respondent to be set aside, even before he filed the Election Petition it is rather significant that no particulars, whatsoever have been given by him even in the first instance, as is mandatory under the Act.

38. P.W. 1 admits in so many wards, that the two allegations of corrupt practices, which he has referred to in the supplementary affidavit, filed by him, were known to him even before he filed the Election Petition. It is also seen that in cross-examination he was specifically asked whether it was not his duty to mention about these specific acts of corrupt practices in the Election Petition; and the answer given by him was that though he knows these particulars must be alleged in an election petition he has given the necessary information to his advocate.

39. Regarding the corrupt practice of the first respondent having hired or procured a taxi, he has also stated that that information was well-known to him even before he filed the Election Petition. In fact, even in respect of the circumstances under which the copy of the letter Ex. X(I) was obtained by the 5th respondent he claims to have obtained knowledge from her even before filing the Election Petition. P.W. 16 herself, has categorically stated in her evidence, that these acts of corrupt practices, which are alleged by the appellant, were all known to her; and she also says that when the Election Petition, which was prepared in this matter, was perused by her, those particulars were not there. But she is positive that she has informed the appellant about these matters, even before the Election Petition was filed. We are particularly referring to this aspect in order to consider the evidentiary value, to be given to the evidence that has been let in to support these two specific allegations of corrupt practice details of which were given only long after the original election petition was filed.

40. The first question that arises for consideration is as to whether the finding of the Election Tribunal that there is nothing in the evidence to show that the first respondent had paid a sum of Rs. 15,000/- to the Praja Socialist Party, is to be accepted or not.

41. P.W. 1 does not know directly anything about this matter and he himself has stated so in his deposition. On the other hand, it is seen that P.W. 2, who is the chairman of the party and P.W. 4 the treasurer have produced records to show that absolutely no amount was received by the party, from the first respondent.

42. No doubt, Mr. K. Velayudhan Nair is perfectly justified in his criticism that the Election Tribunal, in considering this aspect does not advert to the evidence of P.W. 16. But we ourselves have gone through the entire evidence of that witness, which was read out by the learned counsel.

43. P.W. 16 is none else than the 5th respondent who got defeated in the elections. There is material to show that at that time, there was very serious difference of opinion even among the Congress group; and the local Congressmen do not appear to have appreciated the setting up of the 5th respondent, as a candidate by the Congress High Command in the election to the Rajya Sabha. It is also borne out by evidence, that the Muslim League, as well as the Praja Socialist Party were out to oppose the Congress candidate, and it is also in evidence that even among the Congress Party itself, there was a difference of opinion as to whether the Congress candidate nominated by the Congress High Command, should be given full support or not. These aspects, we are referring to because it was urged by the learned counsel for the appellant that mere circumstances that a person, like the first respondent who had absolutely no political backing whatsoever has come out successful with the help of the Muslim League and the Praja Socialist Party is itself a very strong indication, supporting the case of the appellant that substantial amounts must have been paid, as alleged by the appellant, by the first respondent to the Praja Socialist Party. We are not inclined to accept this very large contention.

44. On the other hand, the evidence on record will have to be properly taken into account, and it is the function of this Court now to find out as to whether the Election Tribunal's finding as against the appellant is to be accepted or not. P.W. 16 has spoken to the circumstances under which she was able to obtain a copy of the letter, which is stated to have been written by P.W. 3 to P.W. 15. That copy of the letter is Ex. X(I).

45. We have already referred to the substance of the said letter and that is extracted in the order of the Election Tribunal. P.W. 3 has totally denied the sending of any such letter to P.W. 15, and P.W. 15 has totally denied in turn of

having received any such letter or of having permitted P.W. 16 to take a copy as alleged by her.

46. According to P.W. 16, a few days before the last date for filing election petition, Mr. P. I. Joseph phoned to her stating that P.W. 15 was in his house and would like to meet her. In response to the said phone call she says that she went to the house of P. I. Joseph and there P.W. 15 showed the original of the letter Ex. X(1) and promised to give the original, if a sum of Rs. 1000 was paid to him. But according to her, she herself did not have any money to pay to P.W. 15. It is her further evidence that the original letter was handed over to P. I. Joseph, for being delivered in turn to P.W. 16 when the sum of Rs. 1000/- is paid.

47. It will be seen that no doubt the appellant has taken steps for examining P. I. Joseph. But if ultimately that witness could not be procured, it is not the fault of anybody. But we have already pointed out that the court has taken all steps that are necessary for the purpose of enforcing the attendance of that witness. But unfortunately it did not result in any material benefit. But the point to be noted is that even accepting the evidence of P.W. 16, regarding the circumstances, under which she was allowed to take a copy like Ex. X(1) there is absolutely no whisper in her evidence, that P.W. 15 has stated that the amount referred to therein represents a payment made by the first respondent in connection with the said election to the Praja Socialist Party. Therefore, in the absence of any such evidence being given even by one of the candidates who stood for election, namely P.W. 16, the letter Ex. X(1), nor her evidence do not in any manner advance the case of the appellant.

48. Coming to Ex. X(1) itself, it will be seen that there is absolutely no reference to any payment by the first respondent to the Praja Socialist Party. In this connection, it is necessary to note what exactly is the connotation of the word 'Bribery' so as to amount to a corrupt practice. That expression has been defined in sec. 123(1) of the Act as any gift, offer or promise by a candidate or his agent or by any other person with the consent of a candidate or his election agent of any gratification, to any person whomsoever with the object of directly or indirectly inducing an elector to vote.

49. That offer, gift or promise, must be with a view to induce an elector to vote or refrain from voting at an election. In this case, the allegation is that the amount was paid to the Praja Socialist Party for the purpose of inducing the members of that party to vote for the first respondent. But the definition of the expression will clearly show that the amount must have been paid by the candidate or his agent or by any other person with the consent of the candidate. So far as this aspect is concerned, there is absolutely no such evidence forthcoming. Therefore, in our opinion, even if we accept the contention of the learned counsel for the appellant that the evidence of P.W. 16 has to be accepted it is not possible for us to come to the conclusion that Ex. X(1) taken along with the evidence of P.W. 16, will establish the first allegation of corrupt practice namely the payment of the sum of Rs. 15,000 by the first respondent to the Praja Socialist Party. Therefore in our opinion, the finding recorded by the Election Tribunal on this aspect will have to be sustained.

50. The second allegation of corrupt practice relates to the providing of a conveyance to P.W. 6 from Wadakkancherry to Trivandrum and back. So far as the transport from Wadakkancherry to Trivandrum is concerned, excepting a suggestion being made to P.W. 6, in that regard there is no other acceptable evidence placed before the tribunal by the appellant.

51. But there is evidence placed by the appellant to the effect that P.W. 6 did travel from Trivandrum to Wadakkancherry in a taxi, bearing Registration No. KLA 300, the driver of which, was P.W. 13. According to the appellant, the taxi was engaged by P.W. 15 the leader of the Praja Socialist Party in the Assembly, in the presence of the first respondent for the purpose of giving a lift-back to a voter namely Sri Balakrishna Menon, P.W. 6, from Trivandrum to Wadakkancherry. The evidence of P.W. 6 has been considered by the Election Tribunal and the Election Tribunal was not satisfied that he was speaking the whole truth. The Election Tribunal has also considered the evidence of P.W. 15 in that regard and here again the same view has been expressed by the Election Tribunal. We are also of the opinion that there are a lot of suspicious circumstances attending upon this hiring of a taxi on the date of the election for transporting P.W. 6 from Trivandrum to Wadakkancherry. Even according to P.W. 15, the taxi in question was taking a friend of his from Trivandrum to Kayamkulam and that he suggested to P.W. 6 that the latter can have a free

lift up to that place and that he can make his own arrangements with the taxi-man, for being transported to Wadekkancherri. P.W. 6 gives rather very evasive answers to many direct questions that were being put to him. If P.W. 15 is not connected with the engaging of the vehicle, in question, there was absolutely no necessity for P.W. 6 to have given the memo, Ex. P.4. P.W. 6 admits having given the memo Ex-P4; and even going by the evidence of P.W. 6 he has bargained to pay a sum of Rs. 60 as charges for the vehicle; but Ex-P4; only shows that a sum of Rs. 45 has been paid by P.W. 6. As to who exactly has paid the balance is unfortunately still in the realm of mystery. No doubt P.W. 13 states that, after coming back to Trivandrum, he handed over the memo Ex-P4 to P.W. 15, and that the latter paid the balance.

52. But here again, there is considerable difficulty in accepting this version as true, because if Ex-P4 has been handed over to P.W. 15, there is absolutely no explanation forthcoming, on the side of the appellant, as to how exactly he came into possession of that letter, which was produced by him and put to P.W. 6, when the latter was in the witness-box.

53. Therefore, we are also satisfied that there are several doubtful and suspicious circumstances. But the point to be considered by us, is as to whether for the charge of corrupt practice, in this regard, proof similar in respect of a charge of criminal offence is forthcoming in this case. So far as the hiring and procuring conveyance for transporting candidates, so as to amount to corrupt practice, is again dealt with in sec. 123(5) of the Act. A perusal of that sub-section will show that the hiring or procuring should be by a candidate or his agent or by any other person, with the consent of a candidate or his election agent.

54. The question in this case is whether any one of these circumstances has been established in this case. We have also to refer Explanation 1 to sec. 123 relied upon by the learned counsel for the appellant wherein the expression 'Agent' has been held to include also a person who has acted as an agent in the election with the consent of the candidate. That is, according to the learned counsel for the appellant, in this case P.W. 15 must be considered to have acted, as an agent for the purpose of election, of the first respondent, and that he has so acted with his consent; and therefore the further contention is that if there is material to show that P.W. 15 has hired the taxi for transporting P.W. 6, it comes directly under Sec. 123(5) of the Act, read with Explanation 1. We are not inclined to accept this contention of the learned counsel for the appellant in the particular circumstance of this case. There is absolutely no evidence adduced in this case, to show that the Praja Socialist Party itself, had provided funds for the purpose of meeting the election expenses of the first respondent. Nor is there any evidence to show that P.W. 15, has been constituted as an agent, by the first respondent in connection with this election. No doubt there is the evidence placed in this case to show that both the Muslim League, as well as the Praja Socialist Party were lending their support to the first respondent. But that by itself in our opinion, will not satisfy the further requirement, namely that P.W. 15 was acting, as the agent of the first respondent, in this election.

55. It has also to be remembered that the specific case set up by the appellant, in the supplementary affidavit, filed on 30th July, 1964, with reference to this allegation of corrupt practice, is that it was the first respondent who hired or procured taxi for conveying P.W. 6 from Wadekkancherri to Trivandrum and back. Normally we should not permit the appellant, to change his case and try to establish that if he is not able to succeed in proving that it is the first respondent who hired the taxi, then this Court at least must accept his allegations of a corrupt practice on the ground that P.W. 15, who must be considered to be his agent, has so acted on behalf of the first respondent.

56. But anyhow, without standing on any such technicalities, we have adverted to this aspect also; and we are satisfied that apart from the fact that there is no such averment made by the appellant anywhere in the pleadings, there is no evidence adduced in the case to show that P.W. 15 was acting as the agent of the first respondent. It follows therefore, that, even assuming that P.W. 15 had some hand in engaging a taxi to transport P.W. 6, it is not possible for us to accept the contention of the learned counsel for the appellant that the second allegation of corrupt practice stands established. Therefore the learned counsel had, quite naturally, to fall back upon the attempt made by his client to probabilise the presence of the first respondent, at the time when the taxi, in question, was engaged, by P.W. 15.

57. That attempt is sought to be sustained by placing reliance upon the evidence of P.W. 13; and it is the further contention that the said evidence is supported by the evidence of P.W.s. 8 to 10. P.W. 6 categorically says that the first

respondent was nowhere in the picture at the time when he wanted a conveyance to be arranged for going back to Wadakkancherry. In fact, his claim is that he himself offered to pay the entire amount and that he fixed up the taxi hire, with the driver P.W. 13. It is not necessary to further advert to this evidence of P.W. 6 because we have already expressed our views that both P.W. 6 and 15 are not speaking the whole truth, regarding this matter.

58. But there is the evidence of P.W. 13 to the effect that his taxi was hired by P.W. 15 for transporting P.W. 6 to Wadakkancherry. In chief examination P.W. 13 says that at that time, P.W. 6 and the first respondent, were also present. He further says that the first respondent gave a Rs. 100/- note to P.W. 15, who in turn, handed it over to P.W. 13. P.W. 13 further says that he brought the change from a nearby shop, and gave it to P.W. 15; and that P.W. 15 gave a sum of Rs. 30 towards part-payment of the hire charges. He also says that P.W. 6 gave the memo Ex-P4, which was given to P.W. 15, from whom he received the balance fare. But in cross-examination, he has categorically stated, that it was P.W. 6 who mentioned to him that the person who gave the Rs. 100/- note is the first respondent. P.W. 6 has not been asked on any of these matters.

59. That clearly shows that the witness P.W. 13 was not aware, as to who the first respondent is; and P.W. 6 and P.W. 15 have both of them stated that the first respondent was not there at that time. No doubt some support for the theory that this taxi was being engaged on that date, for transporting a voter namely P.W. 6, in connection with the election of the first respondent, is sought to be derived from the evidence of P.Ws. 8 to 10.

60. It is seen that this taxi met with an accident, near Pudukad and in that connection both P.W. 6 and 13 had to approach the Police. P.Ws. 8 and 9 are the two Police Officers, who came to the spot for the purpose of making investigation. Both of them, no doubt stated, that on making enquiries, they came to know that P.W. 15 had engaged the taxi and that taxi was carrying the voter, in connection with the election of the first respondent.

61. In cross-examination, both the officers have stated that ultimately no case was registered by them, and no record was made of any statement made by the driver P.W. 13. The whole source of information is related to P.W. 13. The evidence of P.W. 13, regarding the identity of the first respondent, cannot be accepted. In our opinion, the evidence of P.Ws. 8 and 9 do not stand on a better footing. Even otherwise we are satisfied that the evidence furnished by these officers is very artificial. The evidence of P.W. 10 need not detain us further, because he was only a bystander and he has stated that he got from P.W. 13 information to the effect that the taxi was being run, in connection with the election of the first respondent. He has wound up his evidence by saying that he is a Congress-man and is interested in that party. That evidence also is very artificial; and we are not inclined to place any reliance upon that evidence. Added to that, the source of information is what was given to him by the driver P.W. 13.

62. Therefore ultimately we are thrown back on the question, as to whether the solitary evidence of P.W. 13, is to be accepted or not. That is the point that was no doubt pressed before us by Mr. K. Velayudhan Nair. After having gone through the evidence of P.W. 13, we are satisfied that he is not aware, as to who exactly the first respondent is and that his source of information is again related to what P.W. 6 appears to have stated. No suggestion at all has been made, so far as we could see, to P.W. 6 regarding the circumstances under which the first respondent is alleged to have given the Rs. 100 note to P.W. 15 at the time when the taxi was engaged; and therefore under those circumstances, it is not, in our opinion, safe to place any reliance upon the evidence of P.W. 13 alone and come to the conclusion that the finding of the Election Tribunal, on this aspect is erroneous.

63. We have already referred to what according to the appellant are certain errors committed by the Election Tribunal. That relates to what exactly is the nature of the evidence furnished by P.W. 13. No doubt, though we do not find, in that evidence, what has been extracted in the order of the Election Tribunal, we are satisfied that the impression left upon the Tribunal must be that P.W. 13 was not familiar with the first respondent. With that conclusion was in entire agreement. The other error referred to by the learned counsel for the appellant, is the assumption made by the Tribunal, that even if P.W. 15 had something to do in engaging the taxi, which conveyed P.W. 6 from Trivandrum to Wadakkancherry, it will not amount to a corrupt practice on the part of the 1st respondent. The counsel pointed out that if P.W. 15 was acting, as the agent of the 1st respondent, then the engaging of the taxi, by P.W. 15 to convey the voter P.W. 6, will amount to a corrupt practice on the part of the 1st respondent.

We are satisfied that there is no such error committed by the Tribunal; because, we have already pointed out that the appellant has never set up a case that P.W. 15 was the agent of the 1st respondent in the election. It is on that basis that the tribunal has made these observations. We have also earlier held that even the evidence does not establish that P.W. 15 was acting as the agent of the 1st respondent; and therefore anything, that P.W. 15 may have done, is not as an agent of the 1st respondent or with his consent. We have also held that the attempt made by the appellant to establish the presence of the 1st respondent, when the taxi was engaged, has not succeeded.

The result is that all the findings recorded by the Election Tribunal are accepted, and the appeal will stand dismissed with costs of the 1st respondent.

15th September, 1965.

24th Bhadra 1887.

Sd./- C. A. VAIDIALINGAM, Judge.

[No. 82/8/64.]

By Order,

A. N. SEN, Under Secy.

### MINISTRY OF HOME AFFAIRS

New Delhi, the 2nd November 1965

**S.O. 3490.**—Whereas arrangements have been made with the Government of the United Arab Republic for taking the evidence of witnesses residing in the United Arab Republic in relation to criminal matters in courts in India, the Central Government, in pursuance of sub-section (3) of section 504 of the Code of Criminal Procedure, 1898 (5 of 1898), hereby directs that commissions from courts in India for the examination of witnesses in the United Arab Republic shall be issued in the form annexed hereto, to the Cairo Court of First Instance and that such commissions shall be sent to the Ministry of External Affairs, Government of India, New Delhi, for transmission to the Court concerned.

[No. F.11/5/65-Judl.II.]

B. SHUKLA, Dy. Secy.

### MINISTRY OF EXTERNAL AFFAIRS

New Delhi, the 30th October. 1965.

**S.O. 3491.**—In pursuance of Clause (a) of Section 2 of the Diplomatic and Consular Officer's (Oaths and Fees) Act, 1948, the Central Government hereby authorises Shri B. N. Sinha, Personal Assistant in the Commission of India, Suva, Fiji to perform the duties of a Consular Agent with effect from the 29th September, 1965 until further orders.

[No. T. 4330/1/65.]

S. K. CHATTERJEE, Under Secy.

### MINISTRY OF FINANCE

(Department of Expenditure)

New Delhi, the 30th October 1965

**S.O. 3492.**—In exercise of the powers conferred by clause (a) of sub-rule (2) of rule 14 of the Central Civil Services (Classification, Control and Appeal) Rules 1957 and in continuation of the notification of the Government of India in the Ministry of Finance (Department of Expenditure) No. S.R.O. 638, dated the 28th February, 1957, the President hereby directs that, subject to the provisions of sub-rule (4)

thereof, the power to impose any of the penalties specified in rule 13 of the said Rules may also be exercised by the Comptroller and Auditor General in the case of an Assistant Accountant General or equivalent (other than a regular member of the Indian Audit and Accounts Service) in the Indian Audit and Accounts Department.

[No. F. 3(3)-E.G. I/65.]

K. N. SINGH, Dy. Secy.

(Department of Economic Affairs)  
New Delhi, the 2nd November 1965

S.O. 3493.—Statement of the Affairs of the Reserve Bank of India as on the 22nd October 1965

BANKING DEPARTMENT

LIABILITIES	Rs.	ASSETS	Rs.
Capital paid up	5,00,00,000	Notes	24,78,32,000
		Rupee Coin	3,10,000
Reserve Fund	80,00,00,000	Small Coin	2,87,000
National Agricultural Credit (Long Term Operations) Fund	100,00,00,000	Bills Purchased and Discounted:—	
		(a) Internal	..
		(b) External	..
National Agricultural Credit (Stabilisation) Fund	10,00,00,000	(c) Government Treasury Bills	112,60,73,000
		Balances held Abroad*	11,81,78,000
National Industrial Credit (Long Term Operations) Fund	15,00,00,000	Investments**	111,50,51,000
		Loans and Advances to:—	
		(i) Central Government	..
		(ii) State Governments@	119,88,26,000

LIABILITIES		Rs.	ASSETS		Rs.
Deposits:—			Loans and Advances to :—		
(a) Government :—			(i) Scheduled Banks† . . . . .		
(i) Central Government . . . . .			(ii) State Co-operative Banks†† . . . . .		
(ii) State Governments . . . . .			(iii) Others . . . . .		
(b) Banks :			Loans, Advances and Investments from National Agricultural Credit (Long Term Operations) Fund—		
(i) Scheduled Banks . . . . .			(a) Loans and Advances to :—		
(ii) State Co-operative Banks . . . . .			(i) State Governments . . . . .		
(iii) Other Banks . . . . .			(ii) State Co-operative Banks . . . . .		
(c) Others . . . . .			(iii) Central Land Mortgage Banks . . . . .		
Bills Payable . . . . .			(b) Investment in Central Land Mortgage Bank Debentures . . . . .		
Other Liabilities . . . . .			Loans and Advances from National Agricultural Credit (Stabilisation) Fund—		
Rupees . . . . .			Loans and Advances to State Co-operative Banks . . . . .		
			Loans, Advances and Investments from National Industrial Credit (Long Term Operations) Fund—		
			(a) Loans and Advances to the Development Bank . . . . .		
			(b) Investment in bonds/debentures issued by the Development Bank . . . . .		
			Other Assets . . . . .		
			Rupees . . . . .		

\*Includes Cash and Short-term Securities.

\*\*Excluding investments from the National Agricultural Credit (Long Term Operations) Fund and the National Industrial Credit (Long Term Operations) Fund.

‡ Excluding Loans and Advances from the National Agricultural Credit (Long Term Operations) Fund, but including temporary overdrafts to State Governments.

† Includes Rs. NIL advanced to scheduled banks against usance bills under section 17(4)(c) of the R. B. I. Act.

†† Excluding Loans and Advances from the National Agricultural Credit (Long Term Operations) Fund and the National Agricultural Credit (Stabilisation) Fund.

Dated the 27th day of October, 1965.



An Account pursuant to the Reserve Bank of India Act, 1934, for the week ended the 22nd day of October, 1965

ISSUE DEPARTMENT

LIABILITIES		Rs.	Rs.	ASSETS		Rs.	Rs.
Notes held in the Banking Department				Gold Coin and Bullion :—			
Notes in circulation		24,78,32,000		(a) Held in India		133,75,56,000	
		2620,82,66,000		(b) Held outside India			
Total Notes issued			2645,60,98,000	Foreign Securities		70,63,24,000	
				TOTAL			204,38,90,000
				Rupee Coin			103,77,79,000
				Government of India Rupee Securities			2337,44,29,000
				Internal Bills of Exchange and other commercial paper			
TOTAL LIABILITIES			2645,60,98,000	TOTAL ASSETS			2645,60,98,000

Dated the 27th day of October, 1965.

P. C. BHATTACHARYYA,  
Governor.

[No. F. 3(a)-BC/65.]  
R. K. SESHADRI,  
Director (Banking).

**DEPARTMENT OF SOCIAL SECURITY***New Delhi, the 30th October 1965*

**S.O. 3494.**—In exercise of the powers conferred by sub-section (2) of section 16 of the Employees' Provident Fund Act, 1952 (19 of 1952), and in continuation of the notification of the Government of India in the Ministry of Labour and Employment No. S.O. 2932 dated the 15th September, 1962, published in Part II, section 3, sub-section (ii) of the Gazette of India dated the 22nd September, 1962, the Central Government hereby exempts such class of establishments owned or controlled by charitable institutions as are working exclusively for the benefit of their employees, from the operation of the said Act for a further period of five years.

2. This notification shall be deemed to have come into force with effect from the 13th August, 1965.

[No. 11/18/65/PF-II.]

DALJIT SINGH, Under Secy.

**परिवहन मंत्रालय****(परिवहन पक्ष)**

नई दिल्ली, 20 अक्टूबर, 1965

**एस० नो० 3495 .**—व्यापार पोत अधिनियम 1958 की धारा 202 उपधारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा निदेशित करती है कि शिपिंग मास्टर्स के पास जहाजों के मालिकों या मास्टर्स द्वारा जमा की गई या भविष्य में जमा की जाने वाली नाविकों पर लगाए गए जुर्माने की राशि सीफेयर वेलफेयर फंड को हस्तांतरित कर दी जायेगी और उसका नाविकों के कल्याण के लिए उपयोग किया जायेगा :

[संख्या 14-एम० टी० (13)/65]

डी० एस० निमि,

उपसचिव ।

**MINISTRY OF TRANSPORT****(Directorate General of Shipping)****MERCHANT SHIPPING***Bombay, the 30th October 1965*

**S.O. 3496.**—In exercise of the powers conferred by sub-section (2) of section 8 of the Merchant Shipping Act, 1958 (44 of 1958) read with the Order of the Government of India in the late Ministry of Transport and Communications, No. S.O. 771, dated the 7th March, 1962, and in supersession of the Notification No. S.O. 2016, dated the 8th June, 1965, the Director General of Shipping hereby appoints the officers mentioned in the Second Column of the schedule annexed hereto as the officers in Charge of the office of the Mercantile Marine Department at the port of Bedi Bunder Jamnagar for the periods mentioned against their names in Column 3 thereof.

## SCHEDULE

Serial No.	Name of Surveyor	Period
1	Shri R. R. Potnis, Engineer and Ship Surveyor	3rd June, 1965 to 13th June, 1965.
2	Shri P. S. Barve, Nautical Surveyor	14th June 1965 to 22nd August, 1965.
3	Shri R. R. Potnis, Engineer and Ship Surveyor	23rd August 1965 until further orders.

2. This notification shall be deemed to have come into force on the 3rd day of June, 1965.

[No. F.139-SH(65)/62.]

**S.O. 3497.**—In exercise of the powers conferred by sub-section (1) of section 9 of the Merchant Shipping Act, 1958 (44 of 1958) read with the Order of the Government of India in the late Ministry of Transport and Communications No. S.O. 771, dated the 7th March, 1962, and in supersession of the Notification No. S.O. 2229, dated the 19th June, 1964, the Director General of Shipping hereby appoints the officers specified in the second Column of the schedule annexed hereto to be the Surveyors for the purpose of said Act at the port of Mormugoa for the periods mentioned against their names in Column 3 thereof.

## SCHEDULE

Serial No.	Name of Surveyor	Period
1	Shri K. Sheshadri, Engineer and Ship Surveyor	19-6-1965 until further orders.
2	Capt. R. L. Rikhye, Nautical Surveyor	24th May, 1965 to 4th June, 1965
3	Shri A. M. Pagarkar, Nautical Surveyor	5th June, 1965 until further orders

2. This notification shall be deemed to have come into force on the 24th day of May 1965.

[No. F.139-SH(65)/62.]

**S.O. 3498.**—In exercise of the powers conferred by sub-section (2) of section 8 of the Merchant Shipping Act, 1958 (44 of 1958) read with the Order of the Government of India in the late Ministry of Transport and Communications No. S.O. 771, dated the 7th March, 1962, and in supersession of the Notification No. S.O. 2228, dated the 19th June, 1964, the Director General of Shipping hereby appoints the officers mentioned in the second Column of the schedule annexed hereto as the officers who shall be in-Charge of the office of the Mercantile Marine Department at the port of Mormugoa for the period mentioned against their names in Column 3 thereof.

## SCHEDULE

Serial No.	Name of Surveyor	Period
1	Capt. R. L. Rikhye, Nautical Surveyor	24th May, 1965 to 4th June, 1965.
2	Shri A. M. Pagarkar, Nautical Surveyor	5th June, 1965 until further orders.

2. This notification shall be deemed to have come into force on the 24th day of May 1965.

[No. F.139-SH(65)/62.]

**S.O. 3499.**—In exercise of the powers conferred by sub-section (1) of section 9 of the Merchant Shipping Act 1958 (44 of 1958) read with the Order of the Government of India in the late Ministry of Transport and Communications No. S.O. 771, dated the 7th March, 1962 and in supersession of Notifications Nos. S.O. 704, dated the 21st January, 1964 and S.O. 2015, dated the 8th June, 1965, the Director General of Shipping hereby appoints the officers specified in the second Column of the schedule annexed hereto to be the Surveyors for the purpose of the said Act at the Port of Bodi Bunder, Jamnagar with effect from the dates mentioned against their names in Column 3 thereof.

#### SCHEDULE

Serial No.	Name of Surveyor	Date of Appointment
1	Shri R. R. Potnis, Engineer and Ship Surveyor	17th May, 1965.
2	Shri P. S. Barve, Nautical Surveyor	14th June, 1965.

2. This notification shall be deemed to have come into force on the 17th day of May 1965.

[No. F.139-SH(65)/62.]

NAGENDRA SINGH,  
Director General of Shipping.

### MINISTRY OF IRRIGATION AND POWER

*New Delhi, the 1st November 1965*

**S.O. 3500.**—In pursuance of sub-section (2) of section 36A of the Indian Electricity Act, 1910 (9 of 1910), the Central Government is pleased to nominate Shri K. L. Vij, Vice Chairman, Central Water and Power Commission, as the Chairman of the Central Electricity Board, vice Shri K. G. R. Iyer.

Shri C. K. V. Rao, Director, Central Water and Power Commission is appointed as Secretary to the Central Electricity Board vice Shri D. K. Basu.

[No. EL-II-9(1)/65.]

M. H. ZINJANI, Under Secy.

### MINISTRY OF STEEL AND MINES

(Department of Mines and Metals)

*New Delhi, the 4th November 1965*

**S.O. 3501.**—In exercise of the powers conferred by section 19 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957), the Central Government hereby makes the following amendments in the notification of the Government of India in the Ministry of Steel, Mines and Fuel (Department of Mines and Fuel) No. S.O. 2434, dated the 26th September, 1960, published in the Gazette of India Part II, Section 3 Sub-section (ii), dated the 8th October, 1960, namely:—

In the said notification, for the words "Deputy General Manager", the words "the Deputy General Manager (Administration) and also by the Deputy General Manager (Technical)" shall be substituted.

[No. C2-1(1)/64.]

**S.O. 3502.**—In exercise of the powers conferred by section 3 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957), and in supersession of the notification of the Government of India in the Ministry of Steel, Mines

and Fuel (Department of Mines and Fuel) No. S.O. 2433, dated the 26th September, 1960, and No. S.O. 2434, dated the 16th July, 1957, as amended by the notifications of the Government of India in the Ministry of Mines and Fuel Nos. S.O. 164, dated the 8th January, 1963, and S.O. No. 163, dated the 8th January, 1963, the Central Government hereby appoints each of the persons specified in column 2 of the Schedule hereto annexed to be the competent authority for the purpose of such of the sections of the said Act as are specified against him in the corresponding entry in column 3 thereof.

SCHEDULE

Sl. No.	Competent Authority.	Section of the Act.
1	2	3
1.	1. Deputy General Manager (Technical), National Coal Development Corporation Ltd. 2. Deputy General Manager (Administration), National Coal Development Corporation Ltd. 3. Chief of Geology and Drilling, National Coal Development Corporation Ltd. 4. Chief Engineer (Electrical & Mechanical), National Coal Development Corporation Ltd. 5. Senior Geologist, National Coal Development Corporation Ltd. 6. Deputy Drilling Superintendent, National Coal Development Corporation Ltd. 7. Senior Driller, National Coal Development Corporation Ltd. 8. Geologists, National Coal Development Corporation Ltd. 9. Senior Survey Officer, National Coal Development Corporation Ltd. 10. Survey Officer, National Coal Development Corporation Ltd.	4(3)
2.	1. Deputy General Manager (Technical), National Coal Development Corporation Ltd. 2. Deputy General Manager (Administration), National Coal Development Corporation Ltd. 3. Chief of Administration and Revenue, National Coal Development Corporation Ltd. 4. Deputy Chief (Revenue), National Coal Development Corporation Ltd.	6
3.	1. Deputy General Manager (Technical), National Coal Development Corporation Ltd. 2. Deputy General Manager (Administration), National Coal Development Corporation Ltd. 3. Senior Revenue Officer, National Coal Development Corporation Ltd.	12
4.	1. Deputy General Manager (Technical), National Coal Development Corporation Ltd. 2. Deputy General Manager (Administration), National Coal Development Corporation Ltd. 3. Chief of Administration and Revenue, National Coal Development Corporation Ltd. 4. Deputy Chief (Revenue), National Coal Development Corporation Ltd.	13(6)
5.	1. Deputy General Manager (Technical), National coal Development Corporation Ltd. 2. Deputy General Manager (Administration), National Coal Development Corporation Ltd. 3. Chief of Administration and Revenue, National Coal Development Corporation Ltd. 4. Deputy Chief (Revenue), National Coal Development Corporation Ltd.	22

[No. C2-1(1)/64.]

RAM SAHAY, Under Secy.

**MINISTRY OF FOOD & AGRICULTURE****(Department of Agriculture)****ORDER***New Delhi, the 5th November 1965*

**S.O. 3503.**—In exercise of the powers conferred by Section 5 of the Essential Commodities Act, 1955 (10 of 1955), the Central Government hereby directs that the power conferred on it to make orders under Clauses (c), (d) and (f) of Sub-Section (2) of Section 3 of the said Act shall in relation to the prices, stocks and movements of cattle fodder of any of the varieties specified in the schedule hereto annexed, be exercisable in all districts except Bombay and Bombay Sub-urban district in the State of Maharashtra also by the concerned Collectors of those districts.

2. This order shall remain in force for the period commencing from the date of its publication in the Gazette of India and ending with the 31st day of July, 1966.

**THE SCHEDULE***Varieties of Cattle Fodder*

Hay

Bhusa

Gowar

Karab, or Karbi or Kadbi.

Grass.

[No. F. 1-16/65-Econ.Py.]

B. SIVARAMAN, Secy.

**(Department of Agriculture)****(Economic Policy Section)****ORDER***New Delhi, the 2nd November 1965*

**S.O. 3504.**—In the notifications issued by the Department of Agriculture, Ministry of Food and Agriculture, Government of India bearing S.O. Number 2700 dated the 26th August, 1965 and S.O. Number 2786 dated the 1st September, 1965, for the words and letters "30th November, 1965," read "30th June, 1966,"

[No. F. 1-10/65-Econ. Py.]

A. C. JAIN, Under Secy.

**MINISTRY OF REHABILITATION****(Office of the Chief Settlement Commissioner)***New Delhi, the 30th October 1965*

**S.O. 3505.**—Whereas the Central Government is of the opinion that it is necessary to acquire the evacuee properties specified in the Schedule hereto annexed in the State of Punjab for a public purpose being a purpose connected with the relief and rehabilitation of displaced persons, including payment of compensation to such persons.

Now, therefore, in exercise of the powers conferred by Section 12 of the Displaced Persons (Compensation & Rehabilitation) Act, 1954, (44 of 1954), it is notified that the Central Government has decided to acquire and hereby acquires the evacuee properties specified in the schedule hereto annexed.

**THE SCHEDULE**

All properties in the State of Punjab which have vested in the Custodian under Section 11 of the Evacuee Interest (Separation) Act, 1951, as a result of adjudication by the Competent Officer under the provisions of the said Act up to 30th

September, 1965, and in respect of which no appeals have filed and if filed, have been rejected by the Appellate Officer concerned.

[No. 16(18)/58-Prop. II. Comp.]

**S.O. 3506.**—Whereas the Central Government is of the opinion that it is necessary to acquire the evacuee properties specified in the Schedule hereto annexed in the States of Gujarat, Maharashtra, Andhra Pradesh, Madras, Mysore and Kerala for a public purpose being a purpose connected with the relief and rehabilitation of displaced persons, including payment of compensation to such persons.

Now, therefore, in exercise of the powers conferred by Section 12 of the Displaced persons (Compensation & Rehabilitation) Act, 1954, (44 of 1954), it is notified that the Central Government has decided to acquire and hereby acquires the evacuee properties specified in the schedule hereto annexed.

#### A SCHEDULE

All properties in the State of Gujarat, Maharashtra, Andhra Pradesh, Mysore, Madras and Kerala which have vested in the Custodian under Section 11 of the Evacuee Interest (Separation) Act, 1951, as a result of adjudication by the Competent Officer under the provisions of the said Act up to 30th September, 1965, and in respect of which no appeals have been filed and if filed, have been rejected by the Appellate Officer.

[No. 1(27)/Comp. & Prop/61.]

**S.O. 3507.**—Whereas the Central Government is of the opinion that it is necessary to acquire the evacuee properties specified in the Schedule hereto annexed in the State of Rajasthan for a public purpose being a purpose connected with the relief and rehabilitation of displaced persons, including payment of compensation to such persons.

Now, therefore, in exercise of the powers conferred by Section 12 of the Displaced persons (Compensation & Rehabilitation) Act, 1954, (44 of 1954), it is notified that the Central Government has decided to acquire and hereby acquires the evacuee properties specified in the schedule hereto annexed.

#### A SCHEDULE

All properties in the State of Rajasthan which have vested in the Custodian under Section 11 of the Evacuee Interest (Separation) Act, 1951, as a result of adjudication by the Competent Officer under the provisions of the said Act, up to 30th September 1965, and in respect of which no appeals have been filed and if filed, have been rejected by the Appellate Officer.

[No. 22(13)/Comp. & Prop/61.]

**S.O. 3508.**—Whereas the Central Government is of the opinion that it is necessary to acquire the evacuee properties specified in the Schedule hereto annexed in the State of U.P. for a public purpose being a purpose connected with the relief and rehabilitation of displaced persons, including payment of compensation to such persons.

Now, therefore, in exercise of the powers conferred by Section 12 of the Displaced persons (Compensation & Rehabilitation) Act, 1954, (44 of 1954), it is notified that the Central Government has decided to acquire and hereby acquires the evacuee properties specified in the schedule hereto annexed.

#### A SCHEDULE

All properties in the State of U.P. which have vested in the Custodian under Section 11 of the Evacuee Interest (Separation) Act, 1951, as a result of adjudication by the Competent Officer under the provisions of the said Act up to 30th September 1965, and in respect of which no appeals have been filed, and if filed, have been rejected by the Appellate Officers.

[No. 2(21)/Comp. & Prop/61.]

**S.O. 3509.**—Whereas the Central Government is of the opinion that it is necessary to acquire the evacuee properties specified in the schedule hereto annexed in the States of Delhi, Madhya Pradesh, Bihar and Orissa for a public purpose being a purpose connected with the relief and rehabilitation of displaced persons, including payment of compensation to such persons.

Now, therefore, in exercise of the powers conferred by section 12 of the Displaced Persons (Compensation & Rehabilitation) Act, 1954 (44 of 1954), it is

notified that the Central Government has decided to acquire and hereby acquires the evacuee properties specified in the Schedule hereto annexed.

#### A SCHEDULE

All properties in the States of Delhi, Madhya Pradesh, Bihar and Crissa, which have vested in the Custodian under Section 11 of the Evacuee Interest (Separation) Act, 1951, as a result of adjudication by the Competent Officer under the provisions of the said Act up to 30th September 1965 and in respect of which no appeals have been filed, and if filed, have been rejected by the Appellate Officer.

[No. 22(14)/Comp.&Prop/61.]

M. J. SRIVASTAVA,  
Settlement Commissioner &  
*Ex-Officio* Under Secy.

#### (Office of the Chief Settlement Commissioner)

*New Delhi, the 3rd November 1965*

**S.O. 3510.**—In exercise of the powers conferred by Clause (a) of Sub-Section (2) of Section 16 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954 (44 of 1954) the Central Government hereby appoints for the Faridabad Township, Shri S. S. Govila, Asstt. Settlement Officer in the Office of Chief Settlement Commissioner as Managing Officer for the custody, management and disposal of compensation pool with effect from 29th September 1965 (F.N.).

[No. 10(9)/54-Admn(R)V.III.]

KANWAR BAHADUR,  
Settlement Commissioner (A) &  
*Ex-Officio* Dy. Secy.

#### (Office of the Regional Settlement Commissioner)

#### ORDER

*Bombay, the 1st November 1965*

**S.O. 3511.**—In exercise of the powers conferred upon me by Sub-section (3) of Section 34 of the Displaced Persons (Compensation & Rehabilitation) Act, 1954, I, J. S. BAJAJ Regional Settlement Commissioner, Bombay, hereby delegated my powers of the Settlement Commissioner for hearing and deciding appeals, which are entertainable by me under Section 22 of the said Act, to Shri Bhagwandas Sugnasingh, Settlement Officer.

[No. F. 29(2)/Admn./72933-36/65.]

J. S. BAJAJ,  
Regional Settlement Commissioner, Bombay.

#### MINISTRY OF LABOUR AND EMPLOYMENT

*New Delhi, the 2nd November 1965*

**S.O. 3512.**—In exercise of the powers conferred by section 11 of the Personal Injuries (Compensation Insurance) Act, 1963 (37 of 1963), the Central Government hereby employs the Life Insurance Corporation of India to act as its agent for the purposes of the said Act.

[No. 3/3/65-Spl.]

*New Delhi, the 4th November 1965*

**S.O. 3513/PWA/Rly/Rules/Am.**—In exercise of the powers conferred by sub-sections (2), (3) and (4) of section 26, read with section 24, of the Payment of Wages Act, 1936 (4 of 1936), the Central Government hereby makes the following rules further to amend the Payment of Wages (Railways) Rules, 1938, the same



having been previously published as required by sub-section (5) of the said section 26, namely:—

1. These Rules may be called the Payment of Wages (Railways) Second Amendment Rules, 1965.

2. In the Payment of Wages (Railways) Rules, 1938,—

(i) after rule 5, the following rule shall be inserted, namely:—

“5A. Combined Form of Register.—Notwithstanding anything contained in these rules, where a combined (alternative) form is sought to be used by the employer to avoid duplication of work for compliance with the provisions of any other Act or the rules framed thereunder, an alternative suitable form in lieu of any of the forms prescribed under these rules may be used with the previous approval of the Chief Labour Commissioner.”

(ii) in rule 6, after the words, figures and brackets “registers required by rules 3, 4, 5 and 18(3)”, the words, figure and letter “including registers maintained in lieu thereof in accordance with the provisions of rule 5A,” shall be inserted;

(iii) in rule 21, after the figure “5,” the figure and letter “5A,” shall be inserted.

[No. 535/49/64-Fac.(1).]

**S.O. 3514/PWA/Mines/Rules/Am.**—In exercise of the powers conferred by sub-sections (2), (3) and (4) of section 26, read with section 24, of the Payment of Wages Act, 1936 (4 of 1936), the Central Government hereby makes the following rules further to amend the Payment of Wages (Mines) Rules, 1956, the same having been previously published as required by sub-section (5) of the said section 26, namely:—

1. These Rules may be called the Payment of Wages (Mines) Amendment Rules, 1965.

2. In the Payment of Wages (Mines) Rules, 1956.—

(i) in rule 5, the proviso shall be omitted;

(ii) after rule 5A, the following rule shall be inserted, namely:—

“5B. Combined Form of Register.—Notwithstanding anything contained in these rules, where mechanised pay rolls are introduced for better administration or a combined (alternative) form is sought to be used by the employer to avoid duplication of work for compliance with the provisions of any other Act or the rules framed thereunder, an alternative suitable form in lieu of any of the forms prescribed under these Rules may be used with the previous approval of the Chief Labour Commissioner.”

(iii) in sub-rule (1) of rule 6, after the words, figures, letter and brackets “register required to be maintained under rule 3, 4, 5, 5-A, 17 or 19(3).” the words, figure and letter “including registers maintained in lieu thereof in accordance with the provisions of rule 5-B” shall be inserted;

(iv) in rule 22, after the figure and letter “5A,” the figure and letter “5B,” shall be inserted.

[No. 535/49/64-Fac. (ii).]

VIDYA PRAKASH, Dy. Secy.

New Delhi, the 3rd November 1965

**S.O. 3515.**—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Bombay, in the industrial dispute between the employers in relation to the Newton Chickli Colliery of M/s. Newton Chickli Collieries Private Limited, P.O. Parasia (District Chhindwara, Madhya Pradesh) and their workmen, which was received by the Central Government on the 27th October, 1965.

## BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT BOMBAY

REFERENCE No. CGIT 54 OF 1965

Employers in relation to the Newton Chickli Colliery of M/s. Newton Chickli Collieries Private Limited, Post Office Parasia (District Chhindwara, Madhya Pradesh),

AND

Their workmen

PRESENT:

Shri Salim M. Merchant, Presiding Officer.

For the Employers—Shri B. P. Dabral, Group Labour Officer.

For the Workmen—Shri A. K. Farooqui, President Young India Khadan Mazdoor Trade Union, and Vice President of the All India Khan Mazdoor Federation.

Dated at Bombay this 22nd day of October, 1965

INDUSTRY: Coal-mining.

STATE: Madhya Pradesh.

## AWARD

1. The Central Government, by the Ministry of Labour and Employment's Order No. 5/5/64-LRII, dated 16th May, 1964, made in exercise of the powers conferred by clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 (Act XIV of 1947), was pleased to refer the industrial dispute between the parties abovenamed in respect of the subject-matter specified in the following schedule to the said order, to me for adjudication:—

"1. Whether the management of Newton Chickli Colliery of M/s. Newton Chickli Collieries Private Limited, Parasia, was justified in dismissing from service the following workmen, namely:—

1. Shri Kankaiya, s/o Ramiya.
2. Shri Maroti, s/o Ganpat Kumbi
3. Shri Pratap Singh, s/o Sadhoo Singh?

2. If not, to what relief are they entitled?"

2. At the adjourned hearing of the dispute before me at Bombay on 17th July 1965, the parties recorded a settlement in respect of the Third workmen, viz Pratap Singh s/o Sadhoo Singh, who was represented in those proceedings by Shri A. K. Farooqui, President, Young India Khadan Mazdoor Trade Union, and Vice-President, All India Khan Mazdoor Federation. The terms of settlement as recorded are:—

"that the claims of Pratap Singh, s/o Sadhoo Singh, in this reference are settled, the Company having agreed to make him an *ex-gratia* payment of two months full wages, i.e. basic wage, D.A., V.D.A., interim wage increase as recommended by the Central Wage Board for the Coal Mining Industry, at the rate of wages drawn by him on the date of his dismissal, i.e. 5th October, 1963".

3. Now, the other two workmen, Kankaiya s/o Ramiya, and Maroti s/o Ganpat Kumbi, who were admittedly working as Pump Khalasis were dismissed from service for refusing to carry pipes underground as ordered by the Pit Engineer on Sunday 8th September 1963 for which they were found guilty of the misconducts of (i) wilful insubordination or disobedience of lawful and reasonable orders and (ii) habitual negligence or neglect of work, under S.O. 10(1)(a) and 10(1)(i) respectively.

4. The Union's case is that Kankaiya and Maroti who had joined the service of this Colliery on 1st October 1951 and June 1956 respectively, were active workers of the Young India Khadan Mazdoor Trade Union, that they had appeared before Shri Tayade, Regional Labour Commissioner, Central (Implementation), and deposed against the management and its Pit Engineer, Shri Alvar Khan for which the management bore a grudge against them; that as a result of the depositions of these two Pump Khalasis, and others, the joint Secretary, Government of India, Ministry of Labour and Employment, had taken up the matter of the breach of Code of Discipline which the management of this Colliery was committing with its Central Organisation, viz. the Indian Mining Association, and he had, by his letter dated 20th August 1963 (Ex. W1), requested that organisation to see that there was no recurrence of such an incident in the future.

5. The Union has also relied upon another letter from the Ministry of Labour and Employment, Regional Central (Implementation) dated 3rd April, 1964, in which it was alleged breaches of Code of Discipline by the Pit Engineer of the Newton Chickli Colliery, the Union was advised that in the absence of any record offering alternative employment to Shri Kankaiya and Shri Nimba, Pump Khalasis, on 25th January 1963, it should raise an industrial dispute before the Conciliation Officer of the area concerned for payment of wages for the day in question to them (Ex. W2). The Union has next urged that it was after receipt of the letter (Ex. W1) dated 20th August, 1963 from the Ministry of Labour and Employment that the Colliery issued an office order dated 4th September 1963 directing the Pump Khalasis of Pit Nos. 10 and 11 only, "to carry down pipes and assist the fitters in fitting, installing and shifting of pipes, etc. and whatever other job was entrusted to them by the Pit Engineer, whenever necessary; but that their wages would not be adversely affected, and they would continue to get the same wages of Pump Khalasis" (Ex. E10). According to the Union, this notice was an instance of another breach of the Code of Discipline, as also an attack against the Pump Khalasis of Pit Nos. 10 and 11, because some of them had deposed against the management at the enquiry held by the Regional Labour Commissioner, Central (Implementation), as stated above. With regard to the incident of Sunday 8th September 1963, when these two Pump Khalasis admittedly refused to carry pipes down the pits, the Union's case is that it was not true that there was a breakdown of electricity. In the alternative, the Union has argued that even assuming that there was failure of electricity because of which they were asked to do the alternative work of carrying pipes underground, they could at best have been laid-off for the shift and paid lay-off compensation, or at worst, they would not have been entitled to the wages for the day, but it did not warrant their dismissal which was therefore, illegal and invalid. The Union has finally strongly urged that the departmental enquiry held on the charge-sheet was vitiated by non-observance of rules of natural justice, unfair labour practice and victimisation and bias of the members of the Enquiry Committee and that the findings of the enquiry committees were perverse. On these submissions, the Union claims re-instatement of both these workmen with full back wages.

6. The Company, in its written statement dated 6th July, 1964, admitted that under the job description of Pump Khalasis, as contained in Appendix 11 to Vol. II of the Award of the All India Industrial Tribunal (Colliery Disputes) (The Mazumdar Award) Pump Khalasis have to operate and remain in attendance during the period the pump works, and it is not one of these duties to carry pipes down the Pits. But it has urged that when the circumstances are beyond the control of the management, i.e. failure of electricity or breakdown of machinery, the management can employ the Pump Khalasis on alternative jobs. Its main contention is that on Sunday, 8th September 1963, there was failure of electricity which is supplied by the Madhya Pradesh Electricity Board and, consequently, the Pit Engineer, who was in charge of the Pits 10 and 11 ordered the Pump Khalasis to be employed gainfully and in order that they may not be laid off. The Company has further stated that out of the thirteen Pump Khalasis in the second shift who were ordered to take pipes underground, carried out the instructions of the Pit Engineer, whereas Kankaiya s/o Ramiya, Maroti s/o Ganpat Kumbi, Digamber and Maroti, s/o Ukandia Mali, refused to accept the reasonable and lawful orders of the Pit Engineer. This, according to the management, was misconduct against discipline and amounted to insubordination, and consequently, these 4 Pump Khalasis were charge-sheeted under the Standing Orders, and a departmental enquiry was held, at which, according to the management, the charges against them were established. It appears that of these four Pump Khalasis Maroti, s/o Ukandia Mali, and Digamber apologised at the enquiry and gave an assurance that they would not disobey the reasonable and lawful orders of the Pit Engineer, and they were thereupon excused and retained in service. But according to the management, because Kankaiya and Maroti were adamant in justifying their refusal to carry the pipes underground and had behaved insolently during the departmental enquiry because they had refused to sign their statements, they were dismissed from service. It was further alleged that during the course of the enquiry, the other Pump Khalasis who obeyed the orders of the Pit Engineer had stated that Kankaiya and Maroti had instigated the other Pump Khalasis not to carry out the orders of the Pit Engineer. The Company has submitted that this type of instigation is against the interest of labour and management and discipline in industry. The Company has denied that it has victimised these workmen for their trade union activities, and it has denied that it indulged in unfair labour practice. The Company has submitted that the reference to the enquiry held by the Regional Labour Commissioner, Central (Implementation), and the letter dated 20th August, 1963 (Ex. W-1) relied upon by the Union, were irrelevant. The management admits

having issued its order dated 4th September, 1963 (Ex. E10), but it lays emphasis on the words "whenever necessary" occurring there, and its contention is that the words applied to conditions arising out of circumstances beyond the control of the management. It has in this connection, relied upon Regulation 38(i) of the Coal Mines Regulations, 1957, and has argued that by refusing to accept alternative work on 8th September 1963, the workmen had violated the provision of Regulation 38(i), and therefore, their dismissal was justified.

7. Thereafter, on 26th May 1965, almost ten months after filing its written statement, the management filed what it has described as "an addendum to its written statement", in which, in seeking to elaborate its earlier written statement, it has contended that (i) the dispute is an individual dispute, and was therefore not maintainable (ii) that as far as Kankaiya and Maroti were concerned, it was a condition of service that they should take up alternative jobs offered whenever their own work of Pump Khalasis was not available, and that the letter of 4th September 1963 was only a reminder in writing of this condition of employment and (iii) that the management was not aware of any trade union activity of the concerned workmen, or of their having deposed against the management before Shri Tayade, and that the management did not take any extraneous factors into consideration in dismissing the workmen.

8. Before I deal with the merits of the case, I must dispose of certain technical legal objections which were urged by Shri Dabral for the management.

9. At the first hearing, Shri Dabral objected to the appearance of Shri Farooqui on behalf of the workmen on the ground that the registration of the Young India Khadan Mazdoor Trade Union had been cancelled since the dispute was referred to adjudication. In my opinion, there is no substance in this contention for two reasons (i) as held by the Honourable Supreme Court in the case of *State of Bihar versus Tripa Shanker Jaswai* (AIR 1961, page 304 and 305), for a dispute to constitute an industrial dispute it is not a requisite condition that it should be sponsored by a registered union or that all the workmen of an industrial undertaking should be parties to it. A dispute becomes an industrial dispute even when it is sponsored by a union which is not registered or when the dispute is raised by some only of the workmen. Here, it is admitted that this industrial dispute, was raised by the Young India Khadan Mazdoor Trade Union, which was a registered Union at that time and which sponsored it during the conciliation proceedings. It is not denied, that this union has a substantial membership in the colliery, and was recognised as such in the correspondence with the Labour Department of the Government of India on record. The fact that there is another rival union, which the management now recognises, is no ground for refusing this Union's office-bearer to appear and prosecute this dispute. Besides, Shri A. K. Farooqui also appeared in his capacity as Vice-President of the All India Khan Mazdoor Federation, to which the Young India Khadan Mazdoor Trade Union is affiliated. Lastly, the objection to Shri Farooqui's appearance cannot be given serious consideration for the simple reason that the management has settled with him the claim in this very dispute of the third workman, Shri Pratap Singh, s/o Sadhoo Singh. I must also take judicial notice of the fact that this very management also has settled another industrial dispute, i.e. Reference No. CGIT 78 of 1964, which relates to the dismissal of a workman of this very Colliery at the hearing of the dispute on 7th August 1965, wherein the terms of settlement were signed by Shri Dabral as Group Labour Officer on behalf of the management and Shri A. K. Farooqui as Vice-President of the All India Khan Mazdoor Federation.

10. The next legal objection urged by Shri Dabral is that this is an individual dispute and not an industrial dispute. The least I can say is that I am surprised that such a contention should be raised when it is admitted that the Young India Khadan Mazdoor Trade Union was the registered union, to which a section of the workmen in the Colliery owed allegiance and which, as I have shown earlier, was representing the grievances of the workmen, and had in fact raised this industrial dispute over the dismissal of these workmen, and had admittedly prosecuted it in conciliation proceeding. This is an instance of a registered union, when its registration was in force, having raised an industrial dispute. A registered union having sponsored the dispute, it was not necessary for it to show that a meeting of the workmen of the Colliery was held and it was decided at that meeting that this dispute should be raised claiming reinstatement of the dismissed workmen, as contended by Shri Dabral, who has for this proposition relied upon certain observations in the judgment in the case of *N. Cotton Mills versus Labour Court Madurai* (1965 I LLJ, page 95). Nor am I satisfied that the ruling of the Hon'ble Supreme Court in the case of *Bombay Union of Journalists* (1961 II LLJ, page 436) has any relevance or application to the facts

of this case. I am satisfied that this is an industrial dispute inasmuch as the dispute with regard to these three individual workmen had been sponsored by a registered trade union, which admittedly has membership among the workmen of this Colliery, and therefore, it had developed into an industrial dispute. There is, therefore, no substance in the objection urged by the management in this connection. This contention cannot be treated seriously in view of the fact that with regard to the third workman in this very dispute, Shri Dabral for the Company has settled his claim with this very Union as represented by Shri A. K. Farooqui, as also because Shri Dabral entered into a settlement with Shri A. K. Farooqui as representing the workmen of this Colliery in a subsequent industrial dispute, Ref. No. 73 of 1964, in which the Company entered into an agreement with Shri A. K. Farooqui to take back the dismissed workmen in that case in its Colliery with benefit of continuity of service of his reporting by a particular date, and by consent took an award on those terms.

11. In face of all this, it must be said that these are mere technical objections without any real legal or other merit, and have been raised to delay the dispute, and thus defeat the claim of the dismissed workmen. I, therefore, hold that the first contention raised by the management in its "addendum" dated 26th May, 1965 is an after-thought, and has no substance or validity.

12. Before I discuss the merits of the case, it is necessary to state that it is now well settled law that an industrial tribunal will not interfere with the findings of a domestic Tribunal unless the case falls under one of the four exceptions laid down in the case of the Indian Iron and Steel Company Ltd. and others versus their workmen (1958 1 LLJ, page 260). That judgment lays down the principles on the subject, which have been followed a repeated in other cases that:—

"Undoubtedly, the management of a concern has power to direct its own internal administration and discipline, but the power is not unlimited, and when a dispute arises industrial tribunals have been given the power to see whether the termination of service of a workman is justified and to give appropriate relief. In cases of dismissal on misconduct, the tribunal does not, however, act as a court of appeal and substitute its own judgment for that of the management. The Tribunal will interfere (i) when there is want of good faith (ii) when there is victimisation of unfair labour practice (iii) when the management has been guilty of a basic error or violation of a principle of natural justice and (iv) when, on the materials, the finding is completely baseless and perverse".

At the hearing before me, both parties have filed documents and the management has led the evidence of its Welfare Officer, Shri Brijesh Chandra Sanghi (E.W. 1), through whom it sought to prove the documents in which it has relied and the record of the enquiry. The Union has, as I have already indicated, challenged the domestic enquiry held by the management, and Shri Farooqui for the Union has argued that the enquiry was vitiated because its findings were perverse and the members of the Enquiry Committees were biased and the rules of natural justice were not observed at the enquiry; and that the whole attempt had been to victimise these two workmen for their trade union activities.

13. In my opinion, there is no substance in the contention of the management that both these workmen were bound to carry out the orders of the manager under the provisions of Regulation 38(1)(a) of the Coal Indian Mines Regulations. It is impossible to believe that the order directing the Pump Khalasis to carry the pipes underground in the Pits, which admittedly is the work of filter-coolies, was necessary in the "interest of safety or convenience of persons in the mines". This regulation, in any case, refers to orders which are otherwise valid or legal and binding on the workmen, and, as I shall presently show, this order directing the Pump Khalasis to carry pipes in the pit was not a valid or legal order. Nor is there anything in Regulation 38(1)(a) by which it can be stated that the failure to do alternative work could amount to violation of this Regulation. In fact, neither in the charge-sheets nor in the Enquiry Committees' Reports is there any reference whatsoever to breach of Regulation 38(1)(a) by these workmen.

14. Now, I shall first take up the case of Kankaiya. He was served with a charge-sheet dated 12th September 1963 (Ex. E1, K series), which stated as follows:—

"It has been reported against you as under:—

- (i) on 8th September 1963 in the last shift you were instructed by the Pit Engineer to take the pipes underground, as on that day the electricity

was off. You refused to carry out the orders given to you and went away for that day.

- (ii) You were charged for contravening section 10(1)(a) and 10(1)(i) of the Standing Orders, i.e. insubordination and negligence of duty.
- (iii) You had no right to refuse to work as the other pump khalasis who were instructed carried the pumps to the pit.

To this, Kankaiya sent his written explanation dated 15th September 1963 (Ex. E2 K series), in which he stated that he had not committed any offence under the Standing Orders and submitted that as Pump Khalasi, it was not his duty to carry pipes underground, and that the Pit Engineer was not justified in asking him to carry the pipes underground, and that he had done nothing wrong in declining to carry the pipes down, and that he had not stopped any other workman from taking pipes underground. To this, the Manager of the Colliery, by his letter, dated 28th September 1963, informed Kankaiya, s/o Ramiya, and Maroti s/o Ukandia Mali, that their explanations dated 15th September 1963 were not at all satisfactory, and they were asked to explain their conduct before the Enquiry Committee on 1st October 1963 in the Labour Welfare Department of the Colliery. He was informed that if he remained absent at the enquiry at the appointed time and place, that enquiry would be conducted *ex-parte*. The enquiry, however, was held on 14th October 1963. The Enquiry Committee in the case of Kankaiya s/o Ramiya, and Maroti s/o Ukandia Mali, consisted of Shri S. D. Upadhyaya, Shri B. C. Sanghi, and Shri R. K. Mehta, but since Upadhyaya was not well, the Manager appointed Shri K. C. Sharma, to substitute for him (Ex. E4, K series). The record of the enquiry proceedings in the case of Kankaiya s/o Ramiya, and Maroti s/o Ukandia Mali, has been produced at the hearing. Now, the enquiry started by Kankaiya being searchingly cross-examined by the Enquiry Committee immediately after he had made a statement denying the charge, with a view somehow or the other to elicit replies from him with a view to bring home the charges against him. He was questioned about having abused the Pit Engineer, though there was no mention whatsoever of it in the charge-sheet and no witness had been examined on that point. He is also recorded as having said that he had carried the pipes underground even before the Company's order dated 4th September 1963 (Ex. E10) and advantage of this was taken to argue at the hearing that in the past, i.e. even before 4th September 1963, these workmen used to carry pipes underground, and that the notice of 4th August 1963, was only a reminder of this being a condition of their service.

14(a). Thereafter, the statement of Maroti, s/o Ukandia Mali, was recorded. The first question put to Maroti was whether the Engineer Saheb was in the habit of abusing workmen, and he stated that he had never heard the Engineer Saheb abusing anybody. He was then asked why he had not obeyed the Engineer's Orders on 8th September 1963, and he stated that he should be excused and he would not behave again in that manner (Ex. E6). Below the record of Maroti's statement, there is record of a statement purporting to be of Sheikh Khalil, Shri Jumman and Shri Banarasi—three other Pump Khalasis—in which they stated that on 8th September 1963 the Pit Engineer told the undersigned that as electricity had stopped, the Engineer Saheb ordered them to bring the empty pipes, which they agreed to do, but that Kankaiya and Maroti s/o Ganpat Kumbi did not obey the orders of the Engineer and instigated us not to bring down the empty pipes on the ground that this work was not our duty but we did not listen to them (Ex. E7, K series). This is the only record of the enquiry in the case of Kankaiya, s/o Ramiya. On this, the Enquiry Committee made its report to the Manager, also dated 14th October, 1963 (Ex. E8, K series). The report is a short one, and may be reproduced in full:—

“To,

The Manager,  
N.C.C.

Dear Sir,

This is to inform you that we, the undersigned, conducted an enquiry with regards to the charge-sheet served to Shri Maroti s/o Ganpat and Shri Kankaiya.

During the course of the enquiry, the behaviour of Kankaiya s/o Ramiya has been very bad. He has accepted that he refused to carry pipes. He has further refused to sign his own statement.

From the statement of Jumman, Sheikh Khalil, Banarasi it has been further proved that he refused to carry out the lawful orders of his Superior Officer, i.e. the Pit Engineer. Maroti s/o Ukandia Mali, accepted his fault and has apologised. We, therefore, feel that

exemplary punishment should be given to Kankaiya and Maroti, s/o Ukandia Mali may be left off with a warning.

Yours faithfully,  
Sd/- (R. K. Mehta)".

The same document bears an endorsement from the Manager, in which he has stated:

"Kankaiya should be dismissed and Maroti should be given a stiff warning, and apology should be taken in writing from him."

15. The enquiry against Maroti s/o Ganpat Kumbi followed the same pattern as in the case of Kankaiya. The record of his enquiry has been filed as M series. The charge-sheet against Maroti is dated 11th September, 1963 and the first item on the charge-sheet against him is that on 8th September 1963 in the second shift he had not reported for duty, that he was instructed by the Pit Engineer that as there was no electricity on 8th September, 1963, he was to carry the pipes down the pit. The second item on the charge-sheet is that he had violated section 10(1)(a) and 10(1)(i) of the Standing Orders, i.e., he was guilty of wilful insubordination and negligence. Before I proceed further, it may be noted that the charge-sheet says, Maroti had not reported for duty on 8th September 1963. However, Maroti submitted an explanation dated 15th September 1963 (Ex. E2) in which he denied the charge. He stated that on 8th September, 1963 he had gone on duty when the Engineer told him with displeasure that if he wanted to carry the pipes he should work otherwise he should go away, that he pointed out to the Pit Engineer that he was a Pump Khalasi and enquired why he was given the work of a filter-Collic i.e. to take the pipes down whereupon, the Pit Engineer told him that if he wanted to work he should go down otherwise he should go home, thereupon he went home. With regard to the second item of the charge-sheet, he denied the same and further stated that he had not in any way instigated the other workmen. Another Pump Khalasi, Digamber, who was also served with an identical charge-sheet, also gave a reply denying the charge (Ex. E3). By the management's letter dated 28th September 1963 (Ex. E4, M series) both Maroti and Digamber were informed that the explanations they had submitted were not satisfactory and they were required to explain their conduct before an Enquiry Committee on 4th October 1963. The Enquiry Committee consisted of Shri Sharma, Shri B. C. Sanghi, and Shri R. K. Mehta. At the enquiry, Maroti's statement was recorded (Ex. E5, M series) in which he repeated the explanation which he had tendered. Thereafter, Maroti was searchingly cross-examined and the case was put to him that he had also formerly been carrying empty pipes underground. Thereafter, a statement purporting to have been made by six witnesses on behalf of the management was recorded and their signatures obtained (Ex. E6, M series). Amongst the six are the three who had made a statement in the enquiry against Kankaiya, viz. Sheikh Aziz, Jumman, Banarasi, and three others. In their statement, they stated that Maroti s/o Ganpat Kumbi, and Digamber, had been asked to carry the pipes underground, but that they did not follow the order. Thereafter, the statement of Digamber s/o Mali was recorded (Ex. E7, M series), in which he stated that since his wife was sick he could not attend to his duties and he apologised for not coming for duty. He stated that he did not read the charge-sheet served upon him, but that Kankaiya had got the reply to the charge-sheet written out, and he signed it without reading it, and that Maroti told him and the other pumpers not to carry the pipes underground. He prayed to be excused for his mistake. On the first page of the statement of Maroti it was recorded in English that the statement had been recorded as given by Maroti and that Maroti had refused to sign the statement. Below that appears the endorsement purporting to be of six workmen, but on scrutiny it is found that it is actually signed by only five workmen, out of the six who had purported to have made their statement at the enquiry. Upon this enquiry the members of the Enquiry Committee made their report dated 8th October 1963. The report relating to Maroti is a short one and may be reproduced below:—

"The Manager,  
N.C.C.

Dear Sir,

This is to bring to your kind notice that we the undersigned conducted a departmental enquiry on 4th October, 1963 with regards to the charge-sheet served to Shri Maroti s/o Ganpat and Digamber Pump Khalasi 10/11 Pits.

The statements of the concerned persons were recorded.

Maroti s/o Ganpat in his statement has admitted that he refused to carry out the instructions of the Pit Engineer to carry pipes underground on 8th September 1963 in the second shift as the electricity was off. He also refused to sign his statement in the presence of 6 workers

whose signatures have been taken to certify that he refused to sign. He was several times asked by the enquiry committee to sign his own statement but he was adamant and refused to sign. Since the charges against him have been proved he deserves severe punishment.

Digamber s/o Rajaram Mali has stated that since his wife was sick he could not attend to his duties and he apologised for not coming on duty. He has also stated that the reply of the charge-sheet was not drafted by him but was drafted by one Kankaiya Pump Khalasi. Since he has apologised he may be let off with a warning letter (Ex. E8—M series).

On this report the manager, directed that Maroti should be served with a dismissal notice and Digamber with a stiff warning letter. Thereupon, Kankiya and Maroti were served with dismissal orders dated 15th October 1963 and 11th October 1963 (Ex. E9, K series and Ex. E9, M series) respectively.

16. In my opinion, the documentary and oral evidence on record support the contentions of the Union. There is clear documentary evidence that this Union had taken up the grievances of the workmen in the past. This is clear from the documents (Ex. W1 to W4) filed by the Union. The Union had clearly been raising disputes for breaches of the Code of Discipline by the management. The Union had also, in the past, won its point on several representations which it had made to Labour Department against the management's breaches of the Code of Discipline. From the answers given in cross-examination by the Company's witness (E. W1) it is clear that persons who played an important part on behalf of the Company in the charge sheets against these workmen were actively associated with the rival INTUC Union, which, it is clear was favoured by the management. The INTUC Union, bearing the name of Madhya Pradesh Rashtriya Koyla Khadan Mazdoor Sangh, is the Union recognised by the management. Now, Fateh Yab Khan, the first witness in the case of Maroti at the departmental enquiry, is the younger brother of Shri Alyar Khan, the Pit Engineer. According to the Union, Fateh Yab Khan at the relevant time was the Branch Secretary, and it is admitted by E.W.1 that at present he is the Secretary of the INTUC Union. It is also established, from the cross-examination of the Company's witness (E.W. 1), that the witnesses of the Company at the domestic enquiry were members of the rival Union, i.e. the INTUC Union. For instance, it is admitted that Babu Lal, Pump Driver, is a worker of the INTUC Union. It is also admitted that against Shri K. C. Sharma, who was one of the members of the Enquiry Committee in the case of Kankaiya, a complaint had been filed by the Secretary of the Union which has raised this dispute. It is also admitted that Alyar Khan, the Pit Engineer, was the Treasurer of the INTUC Union. In view of this background of Union rivalry and close association of some of the main officers of the Colliery, who have played a prominent part in this enquiry with the rival INTUC Union, it is necessary to scrutinise the enquiry closely to see whether the rules of natural justice were observed and the charge-sheeted workmen had a fair trial.

17. In my opinion, a scrutiny of the record of the enquiry clearly establishes gross violations of the rules of natural justice for the following reasons (a) instead of the management leading evidence to establish the charge the accused were first searchingly cross-examined, by the members of the Enquiry Committee, in both cases. There is no record to show that the complainant in the case was Shri Alyar Khan, as stated by the witness E.W.1. In any case, Alyar Khan, the Pit Engineer, was never examined at the enquiry. It is clear from the searching cross-examination of the accused by the members of the Enquiry Committee, that they took a partisan attitude. (b) There is nothing to show, barring the endorsement contained at the end of the statement of both Kankaiya and Maroti, that they had refused to sign their statements. It is significant that in the case of Maroti these endorsements are made before the questions in cross-examination were recorded. Another significant fact is that in the case of Maroti s/o Ganpat Kumbi, whilst it is stated that 6 witnesses on behalf of the management had endorsed that Maroti had refused to sign the statement, in fact there are only 5 signatures, though, numerically, 6 numbers from 1 to 6 have been entered. This casts grave doubts as to whether those endorsement were made immediately on Maroti's statement being recorded or whether they were made afterwards. Normally, the endorsement should have appeared after the cross-examination of Maroti, on page 3, but immediately thereafter, the statement purporting to be the evidence of the 6 witnesses of the management has been recorded. Normally, an endorsement that a witness has refused to sign his statement would appear after that witness has given answers to the questions put to him in cross-examination. The fact that in Maroti's case the endorsement has been made before the questions in cross-examination were recorded seems to indicate that these endorsements were subsequently made because there was place enough



only on the first page for the endorsement to be subsequently made, and not on the third page, after the answers in cross-examination had been recorded. It is also significant that the endorsement about Maroti having refused to sign his statement has not been endorsed by anyone of the members of the Committee but by the clerk of the Welfare Department, who has taken down the statement at the enquiry, and purports to be attested by the witnesses for the prosecution. (c) A still more serious omission in the enquiry is the story of the management that at the enquiry against Kankaiya, Shri Shaikh Aziz and in the case of Maroti s/o Ganpat Kumbi, Faleh Yab Khan, were first examined as the prosecution witnesses and subsequently the other two witnesses, viz. Jumman and Banarasi in the case of Kankaiya and five witnesses, viz. Shaikh Aziz, Babu Lal, Jumman, Banarasi and Nanki Lal in the case of Maroti, were examined. This is clearly not borne out by the record of their statements. The language of the record clearly shows that a common statement purporting to be of the 3 prosecution witnesses in the case of Kankaiya and 6 prosecution witnesses in the case of Maroti were first recorded and the signatures of these witnesses subsequently taken. The story of the Company's witness E.W. 1, one of the members of the Enquiry Committee, that each witness of the prosecution was separately examined one after the other, is not borne out by the record—on the contrary, it is established to be false—by the language of the statement of the prosecution witnesses in both the enquiries. What is more fatal is that no opportunity was given to the accused persons to cross-examine these witnesses of the prosecution. No doubt, E.W. 1 has stated that the accused, Kankaiya and Maroti, were asked to cross-examine these witnesses but they refused to do so. But that evidently was an after-thought because the witness admitted that there was no endorsement that Kankaiya and Maroti were asked to cross-examine the witnesses of the prosecution, and that they had declined to do so. Surely, if an endorsement could be made about Kankaiya and Maroti having refused to sign their statements it can hardly be believed that such an important endorsement as of these two workmen having refused to cross-examine the witnesses on behalf of the prosecution would not be recorded if the accused had really stated that they did not want to cross-examine those witnesses. The evidence of E.W. 1 on this point was unconvincing, and it was clear to me that this statement by him was made as an after-thought to fill in a fatal infirmity in the departmental enquiry.

18 It is also significant that the portion of the notice of the enquiry served on both the accused persons did not contain the portion below the signature of the manager, which gave particulars of the persons who were to constitute the Enquiry Committee, as also an intimation to Shri Alyar Khan, the Pit Engineer, to attend the enquiry along with his witnesses. This was admitted by the Company's witness E.W.1 who stated in answer to a question in cross-examination as follows:—

"I say that the notice served on the accused did not contain the endorsement below the manager's signature as appearing in the copy (Ex. E4, K and M series)".

19. Now, with regard to the main charge itself, the misconduct with which they were charged was that they had refused to take the pipes underground, as instructed by the Pit Engineer. Now, it is clear from the duties of Pump Khalasis, as prescribed by the Majumdar Award, that it is not the duty of the Pump Khalasis to take pipes underground. The Company seeks to make this as one of their duties by relying on an office-order dated 4th September 1963 (Ex. E10, K series). Now, surely, this notice constituted a change in the existing service conditions, and, therefore, required a notice of change under Section 9A of the Industrial Disputes Act, which admittedly was not given. No such notice of change having been given, this would not become a valid term and condition of service of Pump Khalasis, and the notice cannot, therefore, validly and legally make it one of their duties to carry empty pipes down the pits. It is further significant that this order has been issued only against the Pump Khalasis of Pits Nos. 10 and 11 of the Colliery, and not against the Pump Khalasis in the other pits of the Colliery. This would show that the order was discriminatory, and was directed against Pump Khalasis of Pits Nos. 10 and 11 who had been challenging the breaches of the Code of Discipline made by the management of the Colliery. The fact, however, remains that this office-order cannot be treated as being a valid order, without notices of change under Section 9A of the Industrial Disputes Act, 1947, and was, therefore, not legally binding on Pump Khalasis of Pits Nos. 10 and 11. Now, Shri Dabral for the Company has sought to argue that this was a valid order as it was to be enforced "whenever necessary", which, according to him means in a case of emergency—such as failure of electricity, etc. This is again another after-thought, because at the enquiry what was sought to made out by answers recorded in the searching cross-examination to which the accused were subjected was that they had in the past been carrying pipes underground, and it was also sought to be argued that, in the past, the Pump Khalasis were carrying pipes underground, and therefore, it was their duty to

do so, and that the notice of 4th September, 1963 (Ex. E10) was only a reminder to that effect. There is, thus, no consistency in the plea of the management. If there was an existing practice, then one fails to see the necessity of the notice of 4th September, 1963. The plea that it was merely a reminder has been raised by the "Addenda" "written statement of the Company filed as an after-thought almost 10 months after its first written statement was filed and this plea was evidently taken as the management well realised that its notice of 4th September, 1963 was invalid and illegal for want of notice of change under Section 9A of the Industrial Disputes Act 1947". In my opinion, this plea of practice in the past was sought to be argued as a second string, the Management realising that they would not be able to establish the validity of the notice of 4th September, 1963 without a notice of change under Section 9A of the Industrial Disputes Act, particularly as it is admitted that under the Award in force, the carrying of pipes is not one of the duties of the Pump Khalasis.

20. Now, what is still more significant is that in the report of the Enquiry Officer, this pertinent point—whether the office-order of 4th September, 1963 was valid or not (and it was the defence of the accused that it was not valid)—was not at all discussed. The Enquiry Officer's report lays greater stress on the alleged fact that Kankaiya and Maroti had refused to sign their statements. Devoid of the sentences relating to the accused's refusal to sign their statements, the only other statements relating to the charge is "since the charge had been proved, he deserves a severe punishment". As regards Kankaiya, it has stated that from the statements of the prosecution witnesses, it was proved that he had failed to carry out the orders of the Pit Engineer. I have earlier dealt with the manner in which the statements of these witnesses for the prosecution were recorded, and how the accused were never allowed an opportunity to cross-examine them. The statement of the prosecution witnesses cannot, therefore, be held to have any evidentiary value. Another infirmity is that the Enquiry Committee's report did not refer anywhere to the Standing Orders under which they were charged. Now, rules 19(1)(a) and 10(1)(i) of the Standing Orders of the Company are as follows:—

10(1) An employee may be suspended for a period not exceeding four days at a time, fined or dismissed without notice or any compensation in lieu of notice if he is found to be guilty of misconduct, and the following acts and omissions shall be treated as misconduct:—

- (a) Wilful insubordination or disobedience whether alone or in continuation with another or others to any lawful and reasonable order of superior.
- (i) Habitual negligence or neglect of work.

Now, both the Enquiry Committees have in their reports found Kankaiya and Maroti guilty of both the charges, and the manager inflicted the punishment of dismissal because they were both found guilty of both these charges. First of all, there is no finding that the order of the Pit Engineer was valid and reasonable, and there is no discussion on the stand taken by the workmen as the main plank of their defence that the order was not lawful and reasonable. Secondly, there is not an iota of evidence to establish the second charge of habitual negligence or neglect of work, and yet, these workmen were found by the Enquiry Committee to be guilty of both these charges, and the extreme punishment of dismissal was inflicted because they were held guilty of both the charges. It is significant that no reference at all is made to the past record of these workmen in inflicting the extreme punishment of dismissal.

20A. It is further significant that by its written statement the Company has charged the accused with having instigated other workmen. There is no such misconduct stated in the charge-sheet nor is there any finding of the Enquiry Committee to that effect.

20B. There is also nothing to establish that refusal to do alternative job when there was no work because of a failure of electricity can amount to a misconduct. The Company's case, in its written statement, as I have indicated in para 6 above, is that the Pit Engineer asked these Pump Khalasis to do the alternative job of carrying pipes as there was failure of electricity on the day in question, i.e. Sunday, 8th September 1963, and he wanted to provide these Pump Khalasis with alternative gainful employment so that they may not be laid off and earn something more. Now, there is nothing to show that refusal to do alternative job, when lay-off would be the alternative, amounts to a misconduct. In the case of lay-off, the workmen would have got less pay, and at most lost their

wages for the day. The Standing Orders of the Company do not make it compulsory for the workmen to accept the alternative work in the case of lay-off, nor do they provide that refusal to do the alternative job amounts to a misconduct.

21. I am of the opinion that the whole enquiry was a mere sham and a formality, as the management was determined to get rid of these two workmen, in other words victimise them because they had, as is clear from the record, been fighting for the rights of the workmen. One of the members of the Enquiry Committee had himself earlier held that the explanation of these workmen was not satisfactory and had ordered that an enquiry should be made. This is a case of a person constituting himself as a judge—when earlier he had already in a different capacity held that the explanation of the accused was not satisfactory. In my opinion, this is a clear case of victimisation of workmen, who had in the past exposed the mis-demeanours of the management. I am also satisfied, for the reasons stated above, that at the enquiry, the rules of natural justice were not observed, that the members of the Enquiry Committee were prejudiced against the accused, that the so-called witnesses for the prosecution were actually associated with the rival Union, and that the enquiry conducted by the members of the Enquiry Committee grossly violated the rules of natural justice, and that the enquiry was held only as a sham formality to fulfil the letter of the law, and that there was no evidence at the enquiry to substantiate the charges of misconduct under Standing Orders 10(1)(a) and 10(1)(i), of which they were found guilty and for which they were given the extreme punishment of dismissal.

22. My finding, therefore, on the first issue referred to me is in the negative, and I hold that the management of Newton Chickli Colliery of M/s. Newton Chickli Collieries Private Limited, Parasia, was not justified in dismissing from service (i) Shri Kankaiya s/o Ramiya and/or (ii) Shri Maroti s/o Ganpat Kumbi.

23. I am next required to state what relief these workmen are entitled to. In my opinion, this is a fit case where the management must be directed to re-instate the workmen in their former posts with full back wages and with the benefit of continuity of service. In calculating the wages to be paid for the period from the date of the dismissal of the workmen to the date of their re-instatement in service, payment by way of basic wage, dearness allowance, V.D.A. bonus, interim wage increased granted by the Central Wage Board for Coal Mining Industry, shall all be taken into account. In other words they shall be entitled to all the wages and other payments they would have been entitled if they had been continued in service and not dismissed. I direct that the workmen shall be re-instated in service in their former posts of Pump Khalasis within one month from the date this Award becomes enforceable, and they shall be paid their back wages and other dues calculated as stated above, from the respective dates of their dismissal, till the date they are re-instated in service, with the benefit of continuity of service.

24. In my opinion, this is a fit case where an order for costs should be made in favour of the Union, which has been put to considerable expense in prosecuting this claim at Bombay. I think costs of Rs. 200 in favour of the Union would be the least that the management can be asked to pay, and I direct the management to pay the same within one month of the publication of this Award.

(Sd.) SALIM M. MERCHANT,  
Presiding Officer.  
[No. 5/5/64-LR-II.]

S.O. 3516.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Bombay in the industrial dispute between the employers in relation to the Bombay Port Trust, Bombay and their workmen which was received by the Central Government on the 22nd October, 1965.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT  
BOMBAY.

REFERENCE No. CGIT 5 of 1964.

Employers in relation to the Bombay Port Trust, Bombay.

AND

The B.P.T. Employees' Union.

PRESENT:

Shri Salim M. Merchant.—Presiding Officer.

**APPEARANCES:**

*For the Bombay Port Trust.*—Shri R. S. Captain, Legal Adviser with Shri R. K. Shetty, Dy. Legal Adviser and R. G. Gama, Officiating Dy. Controller of Stores.

*For the Bombay Port Trust Employees' Union.*—Shri S. K. Shetye, Assistant Secretary, B.P.T. Employees' Union.

*Dated at Bombay this 19th day of October, 1965.*

INDUSTRY: Major Ports.

STATE: Maharashtra.

**AWARD**

1. On the joint application of the Bombay Port Trust (hereinafter referred to as the B.P.T.) and the Bombay Port Trust Employees' Union (hereinafter called the Union), the Central Government, by the Ministry of Labour and Employment's Order No. 28/116/63-LRIV dated 16th January, 1964, made in exercise of the powers conferred by Sub-Section (2) of Section 10 of the Industrial Disputes Act, 1947, (Act XIV of 1947), was pleased to refer the industrial disputes between the parties above named in respect of the following subject matter, to me for adjudication :—

“Whether “A” scale clerks attending to the issue of materials in the Stores Department should be given any extra payment? If so, what should be the quantum of payment and from what date should the payment be made?”

2. Upon receipt of the said order by notice dated 29th January, 1964, I called upon the parties to file their written statements. Thereupon an application dated 25th Feb., 1964 was received from Shri S. K. Shetye, the Assistant Secretary of the Union, asking for extension of 2 weeks' time to file its written statement of claim and by notice dated 18/19th March, 1964, the Union was granted time for filing its written statement and an intimation of this was also sent to the B.P.T. However, no statement of claim was received from the Union nor any written statement from B.P.T. Thereafter on 10th September 1965, this Tribunal issued a notice fixing the hearing of this dispute on 21st September, 1965 when Shri S. K. Shetye, Assistant Secretary of the Union, filed the written statement of claim dated 21st September, 1965 and furnished copy to the representative of the B.P.T. who applied for time to file the written statement in reply which was extended till 4th October, 1965. The B.P.T. thereafter filed its written statement in reply dated 9th October, 1965 and the hearing of the dispute was taken up on 14th October, 1965.

3. The B.P.T. has raised a preliminary legal objection as to the maintainability of this claim and the point urged is that the demand for extra payment for the “A” scale clerks attending to the issue of materials in the Stores Department does not survive as the same has been considered and decided upon by the Classification and Categorisation Committee presided over by Shri F. Jeejeebhoy and later in the Award in reference I.T.C.G. No. 3 of 1963 of the Learned Industrial Tribunal, Shri M. R. Meher I.C.S. (retired).

4. In support of this contention the B.P.T. has stated that the Classification and Categorisation Committee (popularly known after its Chairman, Shri F. Jeejeebhoy, as the Jeejeebhoy Committee) to undertake the work of classification and categorisation of class III and IV employees of major ports in the country, including the port of Bombay and to fit them into one or the other of the scales of pay given in the schedule attached to the Order constituting the Committee. The Jeejeebhoy Committee submitted its report dated 28th May, 1961 and, as was to be expected when such large categories of employees were concerned, it was found that anomalies had crept in respect of the wage scales prescribed for certain categories. There was considerable agitation over these anomalies and the Government of India by an Order dated 26th August, 1963, referred the disputes relating several categories of employees to Shri Meher to ascertain whether there were any anomalies in the recommendations of the Committee. The Government did not at first agree to refer the dispute in respect of “A” scale clerks of the Stores Department to Shri Meher, but later on the insistence of the Unions, a further order of reference was made on 28th November, 1963, being Order No. 28/54/63-LRIV in respect of some categories of some workmen including the “A” scale clerks of the Stores Department which was published in the Gazette of India Part II Section 3(ii) of 7th December, 1963 at Page 4166. According to the B.P.T. in the meantime, being unaware of Government's decision in the matter, the B.P.T. and the Union agreed in or about September, 1963 to make a joint application to Government under Section 10(2) of the Industrial Disputes Act, 1947 and the draft of the application was discussed and the application duly signed on behalf of the Union was received back with the Union's letter dated 27th November, 1963 and signed on behalf of the B.P.T. and sent to the Government of India on 6th December, 1963 in ignorance of the Government's said order dated 28th November, 1963

which was published in the Gazette of India dated 7th December, 1963 and received much later. The B.P.T. has, in this connection, annexed to its written statement, the relevant correspondence between it and the Union as Annexure No. 1 collectively.

5. The point sought to be made by the B.P.T. is that it had made its joint application to Government for reference of this industrial dispute to adjudication in ignorance of the fact that the Government by its notification dated 28th November, 1963 had already referred the dispute with regard to the "A" scale clerks of the Stores Department for adjudication to the Learned Industrial Tribunal, Shri M. R. Meher, and which industrial dispute bore No. I.T.C.G. 3 of 1963, before him. It has, therefore, contended that the dispute regarding the claims of the "A" scale clerks attending to the issue of materials in the Stores Department with regard to the proper scales for them considering their duties having already been referred to adjudication of Shri Meher it could not, thereafter, against be referred for adjudication to this Tribunal. The B.P.T. has, therefore, contended that this dispute having first been adjudicated upon the Jeejeebhoy Committee and later by Shri Meher in Reference I.T.C.G. 3 of 1963 and that having failed to get any relief from those two wage fixing machineries, it was unjustifiably and invalidly seeking a third decision on the same question before this Tribunal. Shri Captain for the B.P.T. had also submitted that the demand under reference was being agitated by this Union before Shri Meher in Reference I.T.C.G. 3 of 1963 and that the Union was well aware of this and had for that reason not prosecuted the instant reference by filing any statement of claim till after Shri Meher had made his Award dated 7th December, 1964, in Reference I.T.C.G. 3 of 1963 published in the Government of India Gazette dated 2nd January, 1965 at pages 21-43, rejecting the claim of the Union for enhancing the scales of pay of the "A" scale clerks of the Stores Department, as fixed by the Jeejeebhoy Committee.

6. Giving details, the B.P.T. has stated that the category of clerks "A" scale of the Stores Department was covered by Serial No. 616 of schedule 1 to the report of the Jeejeebhoy Committee which prescribed a scale of Rs. 30—5—120—EB—8—200—10/2—220. After considering the elaborate submissions made by the Union and particularly pages 209—217 of its statement of claim filed before the Committee, the B.P.T. has relied upon the evidence of Dr. S. G. Patel, the President of the Union, as recorded by Jeejeebhoy Committee on 22nd December, 1960, extracts of which it has given in para 4 of its written statement dated 9th October, 1965. At the hearing, Shri Captain has specially relied upon the following passage in the evidence of Dr. Patel:—

"The Union had suggested higher scales of pay against each post. The duties and responsibilities of the clerical staff of the Stores Department, Dr. Patel continued, included receipt, storage, reservation, distribution and account of stores of various kinds. A variety of such work was carried out in different sections, numbering some 30. All the clerks were required to master the different jobs as they were rotated from section to section. In the opinion of the Union, Dr. Patel continued, the work of the clerks was clerical-cum-field or technical and in many a case entirely field or technical. The outstanding peculiarities of the work of the clerks, by whatever names designated of the Stores Department were given in detail in the Union's statement at items 1—29 at pages 210—212. Dr. Patel read out important items thereof and submitted that the work of such higher type deserved higher remuneration for the different posts as claimed at page 209 in the Union's statement".

Shri Captain, Legal Adviser for the B.P.T., has argued that the submissions made by the Union on behalf of the "A" scale clerks of the Stores Department, as made in support of the demand in this reference, were identical with those which the Union had made before the Jeejeebhoy Committee and Shri Meher in Reference No. I.T.C.G. 3 of 1963. The B.P.T. in its written statement has submitted that Shri Meher in Reference I.T.C.G. No. 3 of 1963, after carefully going through all the submissions made by the parties to the dispute rejected the claim advanced by the Union on behalf of the "A" scale clerks of the Controller of Stores Department *vide* para 54 of his said Award dated 7th December, 1964 and it has annexed to its statement extracts from the relevant paragraphs of the said Award as Exhibit No. 2 to its written statement. The B.P.T. in para 6 of its written statement has submitted that in view of the submission aforesaid made by it and in view of the fact that 2 eminent bodies such as the Jeejeebhoy Committee in 1961 and the Central Government's Industrial Tribunal Shri Meher in 1964-1965 had carefully gone through the demand on behalf of the said "A" scale clerks, the present dispute which is identical in nature and scope does not survive. It has

submitted that, therefore, the repeated demand of this Union through this reference by a Joint application made by the B.P.T. through oversight as stated above should be summarily rejected.

7. Shri S. K. Shetye, the Assistant Secretary of the Union, has on the other hand, submitted that the question whether the "A" scale clerks of the Stores Department should be paid anything extra, for their work was not agitated either before the Jeejebhoy Committee or before Shri M. R. Meher in Reference No. I.T.C.C. 3 of 1963. In that connection, he has relied upon a letter dated 23rd October, 1961 addressed by the General Secretary of his Union to the Secretary of the B.P.T. (Ex. W-1) where, after referring to an additional allowance of Rs. 26/- sanctioned by the Jeejebhoy Committee to the stock verifiers, the Union had stated that the material issuers who were incharge of stores materials of more than lakhs of rupees had not been made eligible by the Jeejebhoy Committee for any additional allowance and that this had led to an anomalous position and that as issuers had to carry more responsibility that stock verifiers, they should be given an extra allowance of Rs. 25/- per month which stock verifiers had been granted. But I do not think there is any substance in this argument because Shri Shetye has admitted that all the arguments which were advanced before the Jeejebhoy Committee for payment of special allowance to stock verifiers and assistant stock verifiers had also been urged by the Union in support of their demand for a special allowance for the stores issuers. No doubt in specific terms the question of payment of a special allowance to clerks "A" scale for issuing stores was not made either before the Jeejebhoy Committee or the Meher Tribunal, but it is quite clear that in seeking an improved wage scale for "A" scale clerks of the Stores Department the argument that they were entitled to the same because of, as contended by the Union, responsible work which they were doing in issuing stores had been urged and must be deemed to have been taken into consideration by the Jeejebhoy Committee when it fixed the scale of pay for the "A" scale clerks in the Stores Department as also by the Meher Tribunal in Reference I.T.C.G. 3 of 1963 when it refused to revise the scales of pay fixed for them by the Jeejebhoy Committee. It is also clear from the statement of claim which this Union had filed before the Jeejebhoy Committee in respect of the "A" scale clerks of the Stores Department that it had urged the same reasons in support of the revised scales of pay for them as it has urged before me in this reference in support of a special allowance for their work of issuing stores. This is clear from para 9 of the Union's statement of claim in CGIT 1 of 1963 where it had in emphasising the outstanding peculiarities of the work of "A" scale clerks of the stores department, specifically submitted as follows at items 9 and 10 thereof:—

Item 9:—

"The clerks working as issuers are not only responsible for issuing the materials but also for the storage of materials. If any shortage is noticed, the office makes good such losses from the staff concerned".

Item 10:—

"While issuing the materials, the clerks concerned have to identify the same and for this purpose they must have technical knowledge (see page 161 to 170 of the statement of the B.P.T. Employees' Union filed in Reference I.T.C.G. No. of 1963)".

It also appears, as contended by Shri Captain, that the statements in item 9 could not refer to clerks other than "A" scale clerks. It is of further interest to note that the same argument has been urged by this Union in para 4 of its written statement dated 21st December, 1963 in Reference No. 3 of 1963, before Shri Meher on item No. 11 which related to clerks "A" scales, Stores Department had in para 32 of its statement of claim specifically stated as follows:—

"In this connection, Union begs to invite the attention of the Hon'able Tribunal to pages 161—170 to the statement of claim in I.T.C.G. No. 1 of 1963".

Whereas as I have shown earlier, it had adopted the same arguments in support of its demand. It is also admitted that the question of stock verifiers was also before Shri Meher and it appears that the Union had in supporting the claim for store issuers, urged the argument that the stock verifiers and assistant stock verifiers had been granted a special allowance.

8. I am not satisfied on the facts and circumstances of the case that my Award in Reference No. 57 of 1964, can justify the submission that the question before the

Jeejebhoy Committee and before Meher Tribunal in Reference I.T.C.G. 3 of 1963 in respect of the "A" scale clerks of the Stores Department was not the same in effect as the question in this reference.

9. In the overall result, I am satisfied that the claim for a special payment to "A" scale clerks of the Stores Department was urged by the Union not only before the Jeejebhoy Committee and also before the Meher Tribunal in reference No. I.T.C.G. 3 of 1963 where it had sought to support the claim for a better scale of pay for them on the very same grounds on which it has sought to justify its present demand for a special allowance for them. I am satisfied that the joint application for this reference was signed by the B.P.T. on 5-12-1963 in ignorance of the Order of Reference by Government in ITCG No. 3 of 1963, which was made on 28-11-1963 and which was published in the Gazette of India on 7-12-1963 and that the B.P.T. came to know of this order of reference only after it had signed the joint application with the Union for the reference of this demand for adjudication. In this connection, it is important to note that on the subject of Extra Allowance for Material Issuers, the B.P.T.'s letter of 10-9-1963 (Part of Ex. E 1) clearly provided, "It was decided to refer the case to adjudication if it has not been raised as an anomaly". As it turned out later, in fact the Government had, prior to the date of the joint application of the Union and the B.P.T., already referred the question of the pay-scales of 'A' scale clerks as an anomaly to Shri Meher by its order dated 28th November, 1963 in Reference I.T.C.G. 3 of 1963 before Shri Meher. I am also satisfied that the Union had in effect made the present claim under this reference before Shri Meher in Reference No. 3 of 1963 and that evidently is the reason why it did not file any written statement of claim or prosecute this reference till after Shri Meher gave his Award rejecting the Union's demand. Having failed to secure relief before Shri Meher, the Union thereafter filed its written statement of claim in this reference and sought to obtain some relief based on the same grounds which it had urged earlier before the Jeejebhoy Committee and Shri Meher.

10. In the result, I uphold the preliminary objection urged by the B.P.T. and hold that this reference is not valid as the present dispute is identical in its nature and its scope as the earlier disputes which this Union had urged before the Jeejebhoy Committee in 1961 and before the Meher Tribunal in Reference No. I.T.C.G. 3 of 1963 in 1964-65. I therefore, hold that the demand under reference has already been adjudicated upon and does not survive.

11. No order as to costs.

Sd./- SALIM M. MERCHANT,  
Presiding Officer.  
[No. 28/116/63-LRIV.]

**S.O. 3517.**—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Bombay in the industrial dispute between the employers in relation to the Bombay Port Trust, Bombay and their workmen which was received by the Central Government on the 22nd October, 1965.

# BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT BOMBAY

REFERENCE No. CGIT 66 of 1964.

Employers in relation to the Bombay Port Trust, Bombay.

AND

The Bombay Port Trust General Workers' Union.

**PRESENT:**

Shri Salim M. Merchant.—*Presiding Officer.*

**APPEARANCES:**

*For the Bombay Port Trust.*—Shri M.R.S. Captain, Legal Adviser, with Shri R. K. Shetty, Deputy Legal Adviser.

*For the Bombay Port Trust General Workers' Union.*—Shri S. Moitra, General Secretary of the Union.

*Dated at Bombay this 20th day of October, 1965.*

INDUSTRY: Major Ports.

STATE: Maharashtra.

### AWARD

1. On a joint application of the parties, the Central Government, by the Ministry of Labour and Employment's Order No. 28(49)/64-LRIV dated 12th June, 1964, made in exercise of the powers conferred by sub-Section (2) of Section 10 of the Industrial Disputes Act, 1947 (Act XIV of 1947), was pleased to refer the industrial dispute between the parties abovenamed in respect of the following subject-matters, to me for adjudication:—

"1. Whether, having regard to the traditional duties of the "Wireless Telegraphist and Signalmen" of the pilot vessel and other relevant circumstances, the Port Administration is justified in requiring them to sweep and clean their quarters and wireless room?

2. If the answer to (a) above is in the negative, should a Topass or a general servant be required to carry out the said work".

2. In its written statement of claim, the Union has stated that before the Classification and Categorisation Committee (hereinafter called the Jeejeebhoy Committee) the Bombay Port Trust (for brevity's sake hereinafter referred to as the B.P.T.) had stated that the duties of a Topass were to, "do the sweeping and cleaning of pilot vessels" and had described the duties of general servants as being, "serve meals, clean officers' quarters, etc.". It has also relied upon the B.P.T.'s enumeration of the duties of a Wireless Telegraphist and Signalmen as being "to carry out Visual Wireless Telephony and Radio Telephonic Communication between ships and Port". The Union has given detail of what, according to it, in actual practice, is the work of the Wireless Telegraphist and Signalmen. The Union has also in its statement of claim compared the duties of the Wireless Telegraphist and Signalmen on the Pilot Vessel 'Venu' with what were the duties of the Wireless Telegraphist and Signalmen on the earlier pilot vessel the "Kennel". The Union has also in its written statement referred to the duties and the shift hours of the Wireless Telegraphist and Signalmen and has also drawn comparison with the workmen employed at the Port Signal Station at Ballard Pier, which, according to it, was equipped with visual signal machinery, flag signalling equipment, radio telephonic system, internal telephone system and radio telephone system and where, because of its efforts, the Signalling Staff are not now being called upon to clean the Signalling Station, scrub the staircase, clean the dining and dormitory. The Union claims that it had achieved all this in spite of the Port Trust's contention that it was the traditional duties of the Signalling Staff of the Port Signalling Station to do the job of sweeping, cleaning, etc. According to the Union, the employers had then argued that the ranks of the Signalling Staff at the Port Signalling Station was similar to that of Signal Ratings in the naval establishment, which the Union had denied and where it had argued that the Signalling Staff of the merchant navy are not considered at Class IV employees but as highly skilled workmen holding the post of officers as far as rank is concerned. It has urged that in the aviation establishment also the Signalling Staff are considered as officers, and that these contentions of the Union must be deemed to have been accepted, because the then Chairman of the Bombay Port Trust, Shri L. T. Gholap, I.C.S., had sanctioned the post of laskar for the Port Signalling Station, and that since that time, during the last eight years, the laskar had been attending to all the jobs of cleaning, sweeping, etc., both on the tower as also the dining room and the dormitory, and yet no damage had been done to any equipment at the Port Signalling Station. The Union has further stated that on the Pilot Vessel 'Venu' the cabin of the Signalmen measures about 9'x9' and about half the floor area is occupied by the Wireless Transmitter and Receiving Set, the Radio Telephone Set, a small Store-Locker, and the Wardrobe. It has stated that the Wireless Transmitter and Receiving Set, as also the Radio Telephone Set, are compact units completely covered; that no machinery is being exposed and the only instrument which is kept on the table is the Morse Key and the Radio Telephone Hand piece, that there are various meters, etc., for the changing of wave-length, tuning, volume, controlling, etc., and that these equipments are such that no damage can ever be caused by their being dusted or cleaned by an ordinarily careful person or a Topass or a general servant. The Union has contended that the duties and responsibilities specified for the signalmen do not make it obligatory on their part to undertake any job which is normally done by class IV unskilled labour: that the demand of the employers on the Signalling Staff to work as a sweeper is derogatory to the dignity and prestige of their profession, and is, therefore, unjust on a ship at sea clean their own equipment and never allow anyone else



Staff to do the cleaning work of the Wireless Cabin, as also their own cabins, is not a reasonable or lawful order, and amounts to unfair labour practice and harassment of the Signalling Staff, that the pilot vessel is provided with sufficient number of Topasses and general servants, and that the work of cleaning the cabin and the Wireless Cabin can be easily divided among the existing staff without any appointment of additional staff; that even if the employers' contention that the existing staff is always kept busy and cannot undertake the additional duty of cleaning the cabins and the Wireless Cabin is correct, that would be no justification for (i) petty officers like the Wireless Telegraphist and Signalmen being compelled to work as menials, and (ii) no additional Topasses or general servants being sanctioned for doing this job.

3. The B.P.T. in its written statement, while referring to the statements filed by it before the Jeejeebhoy Committee, has stated that it had shown the duties and responsibilities, method of recruitment, channel of promotion, qualification needed, etc., in respect of Class III and IV staff of the Bombay Port Trust, and that this statement did not purport to be exhaustive of all the duties that were expected of its various categories of employees, and that that statement could not be held to be binding on the Bombay Port Trust for all time to come. The Bombay Port Trust has submitted that the duties of a Topass on a sea-going vessel are to clean bath-rooms, clean and sweep decks (Except washing and holystoning which is generally done by the Deck crew), dormitories, mess-rooms, etc., and that traditionally the Topass does not clean any cabins provided for the Wireless Telegraphist and Signalmen; that with regard to the cabins of officers, it has stated that the same are cleaned by the general servants. The B.P.T. has submitted that the cabins provided for employees other than officers, such as Wireless Telegraphists and Signalmen, Engine Drivers and Electricians, are cleaned by the occupants themselves, as is the practice on all sea-going vessels, and that the pilot vessel "Venu" is treated as a sea-going vessel. The B.P.T. has contended that the duties stated by the Union in its written statement of claim in respect of general servants and in respect of Wireless Telegraphists and Signalmen was not exhaustive, nor was the list of duties filed by the B.P.T. before the Jeejeebhoy Committee intended or meant to be exhaustive. The B.P.T. has stated that the reference to the employees on the 'Kennery' and the equipment thereon was entirely irrelevant for the purposes of this case. With regard to the employees at the Port Signalling Station at Ballard Pier, the B.P.T. has stated that the equipment provided there is not as complicated as is sought to be made out by the Union. It has further urged that the fact that the Port Signalling Station is a prohibited area and a constable is posted round the clock is irrelevant for the purpose of the issue under reference. It has stated that the five dormitories occupied by the Signalmen at the Port Signalling Station are cleaned by themselves, as has always been the practice; and that the laskar does not clean these dormitories. It has stated that the laskar at the Port Signalling Station has full-time work there, and that it is the practice on all sea-going vessels for all members of the crew, other than officers, to clean their accommodation themselves, and not to provide a separate laskar for such work. The B.P.T. has stated that the machinery at the Port Signalling Station is not so delicate as the machinery on the pilot ship, and that it had never contended that its machinery on the Port Signalling Station was so delicate that if an unskilled worker were to do the cleaning job, its safety would be jeopardised. The B.P.T. has denied that it had, in the dispute relating to the Port Signalling Station, ever contended that the traditional duties of a Signalmen or the Signalling Staff of the Station included the jobs of sweeping and cleaning. It has contended that the status of the Signalling Staff at the Port Signalling Station and on the pilot vessel "Venu" are similar to those of the Signal Ratings in the naval establishment, and, therefore, there can be no valid comparison between the Wireless Operators of merchant navy who possess certificates of proficiency issued by the Ministry of Transport and Communications, Government of India, and the Signalling Staff of the pilot vessel who are recruited from the Indian Navy because of their practical experience of signalling and wireless telegraphy. The Port Trust has, therefore, denied that the Signalling Staff who are officers in the Aviation Department can be validly compared with the members of the Signalling Staff who do not have any such qualification. The B.P.T. has given particulars of the measurements of the wireless cabin on the "Venu" as being 9'x7'x7'. It has submitted that half of the floor area is occupied by the wireless transmitting and receiving set, radio telephones, a store-locker and a wardrobe. It has submitted that the instruments and equipment there are very delicate and cannot be allowed to be handled or cleaned by Class IV staff such as general servants or laskars. It has pleaded that these instruments are very delicate and scarce and very difficult to replace or repair. It has further submitted that wireless-operators on a ship at sea clean their own equipment and never allow anyone else

to touch or handle these instruments. It has pleaded that it is in the interest of the safety of the instruments that the small area measuring about 50 sq. ft. should be cleaned by the wireless telegraphist and signalmen themselves. It has urged that the Motor Engine Drivers and the Electrician Grade I (pilot vessel "Venu") who are in the higher pay-scale of Rs. 170—205 and Rs. 175—250 respectively, themselves clean the accommodation provided for them in the said pilot vessel, including accommodation shared between the Drivers and the Wireless Telegraphist and Signalmen, and, therefore, there is no reason why the last-named, who are in a lower scale of Pay of Rs. 100—180 (Start at Rs. 125/-), should now refuse to clean their own accommodation provided in the said pilot vessel "Venu" after having done so all these years. It has submitted that the present demand is not only unreasonable but constitutes a deliberate attempt to harass the employees and jeopardise the smooth working of the pilot vessel, and for these reasons the demand should be rejected with costs. The B.P.T. has pleaded that the traditional practice on the pilot vessel has been for the Wireless Telegraphist and Signalmen to do cleaning of the Wireless Transmitting Room and their cabins themselves, and that the Union's statement to the contrary is not correct. It has stated that what the Union has stated in para 7 of its written statement with regard to the practice on the "Venu" and its predecessors "Lady Wilson" and "S.P.V. Kennery" is not correct. It has further submitted that the "Venu" cannot be compared with the Port Signalling Station as the latter is a shore-based establishment and the former a sea-going vessel, and the service conditions at the two establishments are totally different and incomparable. The Port Trust has in giving a history of this dispute referred to the correspondence that passed between the Union and the B.P.T. (Annexure 'A' collectively). It has stated that because of the persistent refusal of the Wireless Telegraphist and Signalmen to do their normal duty of cleaning their living cabins and the W.T. Cabin, the Master Pilot had to issue a written order on 2nd May, 1963 and that it was a repetition of the earlier order issued on 4th March, 1963. The B.P.T. has submitted that cleaning of the Wireless cabin and their own cabins by the Wireless Telegraphist and Signalmen cannot be considered as anything derogatory or below their dignity and prestige, when the Electricians and the Drivers who are on a higher scale of pay on the same vessel carry out similar duties and they themselves have done so in the past without objection not only on the previous pilot vessels "Lady Wilson" and "S.P.V. Kennery" but also on the "Venu". It has urged that the order of the Master Pilot was a reasonable and lawful order, and by no stretch of imagination could it be termed an unfair labour practice or calculated to harass the signalling staff. It has urged that any deviation from the routine practice would only undermine discipline. The B.P.T. has also relied upon a note from the Master Pilot on the M.P.V. "Venu" to the Deputy Conservator (Annexure 'B' to its written statement), which was self-explanatory, in justification of the continuation of the existing practice by which Wireless Telegraphists and Signalmen have to clean their own cabins and the Wireless Cabin.

4. I have had the benefit of inspection of the W.T. room and the cabins of the Wireless Telegraphist and Signalmen on the pilot vessel "Venu" and also the Port Signalling station at Ballard Pier. I have also heard the detailed submissions of the representatives of the parties and perused the relevant records filed by them. The W.T. Cabin as also the cabins in which the Wireless Telegraphist and Signalmen reside on the "Venu" are small-sized cabins, the sweeping of the floor of which would hardly take a few minutes, and I am satisfied that it is part of the duties of the wireless telegraphist and signalmen to clean their cabins and the Wireless Room. The terms of reference require me to decide the first issue on the basis of the traditional duties of these workmen. There is not the least doubt in my mind that the pilot vessel "Venu" is treated as a sea-going vessel, and that it has been the usual practice for these workmen to sweep the W.T. Cabin and their own cabins. I am not satisfied that there is any loss of dignity or self-respect involved in these categories sweeping their very small, neat and tidy rooms and the equally compact Wireless Cabin. I am satisfied that employees with higher scales of pay on the pilot vessel "Venu" are required and do clean their own cabins, and there is no effort on anybody's part at lowering the dignity and self-respect of these workmen when they were asked to sweep their own cabins and the W.T. Cabin which they have always been doing, and that the word "traditionally" has been used in that sense. I am satisfied on inspection of this Port Signalling Station at Ballard Pier that there is no proper comparison between that establishment and the "Venu", the former is a shore establishment while the latter is a sea-going vessel, and as pointed out by the Port Trust, the workmen occupying the dormitories at the Port Signalling Station have to clean those dormitories themselves. I am not at all satisfied that there is any real grievance and there is much in the Port Trust submission that this is a demand which has no real justification.

5. At the hearing, Shri Moitra referred to the fact that the operational room of the Observatory on the "Venu" is cleaned by the laskar, and the Transmitting and Receiving Set on the pilot vessel are closed sets and active equipment cannot be touched; he has urged that however sensitive the machines may be, they cannot be spoiled by an untrained person dusting them; that drivers and others occupying the cabins in the pilot vessel object to doing the work of menials; that no member of the crew was opposed to the demand; but there is no denying the fact that these workmen have been traditionally doing work of cleaning the Wireless room and the cabins.

6. I am, however, not prepared to say that the machinery and the instruments in the wireless room cannot be damaged if the dusting is done in a careless manner. There is no doubt that these machines are delicate, costly and would be difficult to replace, and in a sailing vessel it is the duty of the persons operating these instruments to clean and look after them, and, therefore, there can be no question of loss of dignity or self-respect in having to dust and clean machines. It may be that the "Venu" does not sail on the high seas, and its workmen are not required to sign articles as seaman, but, nevertheless, it is a sea-going vessel, and its workmen enjoy all the benefits and shoulder all responsibility of seamen. It is not without significance that the five cabins which constitute the dormitory on the Port Signalling Station are cleaned by the Signalmen themselves. It must be remembered that the Wireless Telegraphist and Signalmen are not officers under the Port Trust rules, as under those rules, a person is an officer who is in a basic pay with a maximum higher than Rs. 500. On the other hand, all these Signalmen are Ratings from the Navy who had practical knowledge of signalling, that none of the five Wireless Telegraphist and Signalmen holds the qualification which the Government of India has desired them to hold.

7. No order as to costs.

(Sd.) SALIM M. MERCHANT,

Presiding Officer.

[No. 28(49)/64-LRIV.]

*New Delhi, the 4th November 1965*

**S. O. 3518.**—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Jaipur in respect of an industrial dispute between the management of the Bank of Rajasthan Limited and their workmen which was received by the Central Government on the 27th October, 1965.

# **CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, RAJASTHAN, JAIPUR**

## **PRESENT:**

Shri J. S. Ranawat, Judge.

**CASE No. CIT-4 of 1965**

**REF:**—Government of India, Ministry of Labour and Employment, New Delhi Order No. 55(12)/65-LRIV, dated 21st May, 1965.

In the matter of an Industrial Dispute

**BETWEEN**

The Rajasthan Bank Employees Union, Jaipur

**AND**

The Bank of Rajasthan Limited, Jaipur.

## **APPEARANCES:**

*For the Union*—Shri R. L. Khandelwal.

*For the Bank*—Shri Nand Lal Mathur.

**Date of Award**

18th October, 1965

## **AWARD**

The Government of India in the Ministry of Labour and Employment referred the following disputes for adjudication under Section 10 of the Industrial Disputes Act on 21st May, 1965:—

"Whether the promotion policy of the Bank of Rajasthan Limited, as finally framed by them with special reference to the holding and passing of tests and interviews is in accordance with the principles enunciated in paragraph 529 of Sastry Award and settlement dated 28th August, 1963? If not, what modifications are necessary?"

Both the parties entered into a settlement on the 9th October, 1965 regarding various matters including that of promotion policy which is the subject-matter of this reference. The parties made a joint application and submitted the original copy of the settlement which was verified by Shri Nandlal Mathur on behalf of the Bank of Rajasthan and Shri R. L. Khandelwal on behalf of the Rajasthan Bank Employees Union. Both the parties prayed that an award be passed in terms of the settlement regarding the promotion policy of the bank. The terms of the settlement regarding promotion policy are as mentioned below:—

#### 1. "Promotion Policy

There had been a dispute between the union and the bank about promotion policy. A reference has been made by the Central Government. On joint request of the parties, to the Government Central Industrial Tribunal, Jaipur in the following terms:—

"Whether the promotion policy of the Bank of Rajasthan Limited as finally framed by them with special reference to the holding and passing of tests and interviews is in accordance with the principles enunciated in paragraph 529 of Sastry Award and settlement dated 28th August 1963? If not, what modifications are necessary?"

The Bank and the union have now come to a mutual settlement on promotion policy as detailed below it will be filed before the Tribunal with a request to give the award accordingly:—

1. The union shall not object to recruitment and promotion according to the bank's rules as heretofore for the post of officers, who are (designated as managers, Asstt. Managers, sub-managers and officers) carrying bank's scales and service conditions irrespective of their emoluments. Officers' appointments made by the bank upto date shall also not be objected to.

#### 2. Award Supervisors:—

- (a) Both parties agree that there shall be no direct recruitment to the post of Award supervisors.
- (b) For purposes of eligibility for promotion to the post of Award supervisors:—
  - (i) Cashier, permanent godown keepers and typists, Steno will be eligible to the post of supervisor provided that they have put in at least 15 months practical experience of working as clerks, and
  - (ii) The above incumbents must have put in at least 5 years service in this bank.
- (c) *Weightage for qualification—Total marks 12*  
 Marking for qualification will be done as under:
  1. Intermediate—3 marks.
  2. B.Com/B.A./M.A./M.Com.—6 marks.
  3. C.A.I.I.B.—6 marks (3 marks for each part).
- (d) There would be written tests and interviews carrying 20 marks. The minimum passing marks would be seven (7). Passing in test and interview would be compulsory. Those who do not pass the test and interview shall not be considered for promotion to the post of supervisor.
- (e) Promotions to the post of supervisor will be on the basis of statewide seniority.

#### 3. Promotions to the post of Checking Clerks, Passing Officers, Head Clerks and Head Cashiers.

- (a) Both parties agree that there shall be no direct recruitment to the above posts.
- (b) (i) For promotion to the posts of checking clerks and head cashiers, administrative districtwise seniority will be basis. All district head quarters will by themselves will be regarded as districts.
- (ii) For promotions to the post of head clerk, and passing officer past political divisions *cum* areawise seniority *cum* merit shall be the basis. Jaipur and Ajmer by themselves will be treated as separate units.

- (c) There shall be no tests and interviews for promotion to the posts of checking clerks, passing officers, head clerks, and head cashiers.
- (d) (i) For purposes of eligibility at least 4 years service in the bank would be compulsory for promotion to the post of head clerk and passing officer and at least three years service in the bank would be compulsory for promotion to the post of checking clerk.
- (ii) Cashiers, clerks, permanent godown keepers, and typists will be eligible for promotion to the post of checking clerks, head clerks, and passing officers provided that they have at least 15 months practical experience of working as clerks.
- (iii) For purposes of promotion to the post of head cashier at least 15 months practical experience as a cashier would be compulsory.
- (e) Weightage for qualifications—Total 12 marks

Marking for qualification will be done as under:—

Intermediate—3 marks.

B.Com/B.A./M.Com/M.A.—6 marks.

C.A.I.I.B.—6 marks (3 marks for each part).

4. General conditions applicable in cases of promotion to Award Supervisors (Post as well as posts of passing Officers, head clerks, head cashiers and checking clerks).

- (a) There will be 10 maximum marks for weightage to be given on the basis of service record.
- (b) Those incumbents who have been punished on account of embezzlement of bank money or gross misconduct resulting in financial loss to the institution shall not be considered for promotion.

Any dispute about the cases of gross misconduct as mentioned above be mutually discussed and in case the matter remains unresolved it shall be referred to the Assistant Labour Commissioner, Civil Lines, Ajmer (Central), for his decision which shall be acceptable to both the parties.

- (c) 58 marks are allotted for seniority which is to be calculated at the rate of 2½ marks for each year of service.
- (d) Promotions will be made on the basis of aggregate marks obtained on the above principles of seniority cum merit.
- (e) This settlement is to last up to 30th December, 1967.
- (f) Appointments made prior to the date of internal settlement dated 23rd December, 1964 shall not be objected to.

5. It is agreed that Sarvashri P. P. Bharia, H. K. Sharma, B. D. Bindal and B. R. Dad, may be appointed supervisors on probation for two months and if their work is found satisfactory during this period they will be confirmed and will not be reverted back as per this settlement.

6. In case of temporary arrangements on account of leave or other emergency:—

- (a) When the arrangement is to be made in respect of checking clerk, Passing Officer, Head Clerk or head cashier, initially—
  - (i) Up to 7 days — Branch seniority will be basis.
  - (ii) for more than 7 days but not more than 2 months — Townwise seniority will be basis.
  - (iii) for more than 2 months — Administrative districtwise seniority be basis.
- (b) When the arrangement is to be made in respect of supervisors' post, initially:—
  - (i) Up to 7 days — Branch seniority be basis.
  - (ii) for more than 7 days but not more than 2 months — Townwise seniority be basis.
  - (iii) for more than two months — Statewise seniority be basis.

Where there is only one branch in a town and there is already a workman P.A. Holders in that branch, the P.A. holder may be given the temporary chance to officiate as supervisor in the leave vacancy or temporary arrangement although he may not be senior in service.

As prayed for by both the parties an award in terms of the settlement relating to the promotion policy of the Bank of Rajasthan is passed. A copy of the award shall be submitted to the Central Government for publication.

(Sd.) J. S. RANAWAT, Judge,  
Central Government Industrial Tribunal, Rajasthan, Jaipur.

[No. 55(12)/65-LRIV.]

**S.O. 3519.**—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Dhanbad, in the industrial dispute between the employers in relation to the Jamuria 7/8 Pits Colliery of M/s. Equitable Coal Co. Ltd., P.O. Dishergarh, Burdwan and their workmen which was received by the Central Government on the 1st November, 1965.

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL,  
DHANBAD**

In the matter of a reference under Section 10(1)(d) of The Industrial Disputes Act, 1947.

REFERENCE No. 117 OF 1965

**PARTIES:**

Employers in relation to the Jamuria 7/8 Pits Colliery of M/s Equitable Coal Co., Ltd., P.O. Dishergarh, District Burdwan (West Bengal).

AND

Their workmen.

**PRESENT:**

Shri Raj Kishore Prasad, M.A., B.L.,—Presiding Officer.

**STATE:** West Bengal.

**INDUSTRY:** Coal.

*Dhanbad, dated the 25th August, 1965*

**AWARD**

By its Order No. 6/86/65-LR.II, dated 16th July, 1965, the Government of India, Ministry of Labour and Employment, referred under Section 10(1)(d) of the Industrial Disputes Act, 1947, to this Tribunal for adjudication, an industrial dispute existing between the employers in relation to the Jamuria 7/8 Pits Colliery of M/s. Equitable Coal Co., Ltd., P.O. Dishergarh, Burdwan, and their workmen in respect of the matter specified below:

**SCHEDULE**

Whether the management was justified in transferring Shri Bhola Sonar, Driller of Jamuria 7/8 Pits Colliery as machine mazdoor-cum-driller? If not, to what relief is the workman entitled for the period of his unemployment?"

2. On 25th August, 1965 by registered post a joint petition of compromise, signed by the representatives of both the parties, was received with a prayer to record the compromise and to pass an award in terms thereof.

3. According to the compromise, the workman concerned, Shri Bhola Sonar, Driller of the Colliery, was allowed to resume his duties as a Driller at Jamuria 7 and 8 Pits Colliery with immediate effect, and the period of his idleness from 22nd March, 1965 to the date of his resumption of duties was treated as leave without wages for the purpose of continuity of service, and, further, the said workman was to be paid an *ex-gratia* amount of Rs. 100, and no other payment whatsoever was to be made to him, in respect of said period of idleness and the parties were to bear their own costs of these proceedings.

4. I have read the above compromise, which is marked Annexure "A", and, in my opinion, the terms of the compromise are quite fair and reasonable and in the interest of both the parties, and, therefore, I accept the compromise and record it, as prayed for by the parties.

5. The reference is accordingly answered in terms of the compromise, Annexure "A", and an award in terms of it is passed and the said compromise, Annexure "A", is made a part of the award.

6. This is the award which I make and submit to the Central Government under Section 15 of the Act.

Dhanbad, dated the 25th August, 1965.

(Sd.) RAJ KISHORE PRASAD,

Presiding Officer,

Central Government Industrial Tribunal, Dhanbad.

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, DHANBAD**

In the matter of an Industrial Dispute as referred to Industrial Tribunal, Dhanbad by the Ministry of Labour and Employment, Government of India, by Order No. 6/86/65-LR.II, dated 16th July, 1965.

**PARTIES:**

Employers in relation to the Jamuria 7 and 8 Pits Colliery

AND

Their Workmen.

The above reference has amicably been settled between the parties on the following terms:—

- (1) That the workman concerned, Sri Bhola Sonar shall be allowed to resume his duties as a Driller at Jamuria 7 and 8 Pits Colliery with immediate effect.
- (2) That the period of idleness from 22nd March 1965 to the date of his resumption of duties shall be treated as leave without wages for the purpose of continuity of service.
- (3) That the said workman shall be paid an *ex-gratia* amount of Rs. 100.00 (Rupees one hundred only) and no other payment whatsoever shall be made to him in respect of the said period of idleness.
- (4) That the parties shall bear their own costs of these proceedings.

It is, therefore, prayed that the above compromise may kindly be recorded and an award passed in terms thereof.

For the workmen:

(JOYANTA PODDAR)

24-8-65.

Asstt. Secretary,  
Colliery Mazdoor Congress (HMS),  
Bengal Hotel, Asansol.

Witnesses:

1. (Sd.) Illegible

2. (Sd.) Illegible

Dated, Asansol, the 24th August, 1965.

For the Employers:

(A. B. CHAUDHURI),

Dy. Labour Adviser,

M/s. Equitable Coal Co., Ltd.,  
P.O. Dishergarh, Dist. Burdwan.

[No. 6/86/65-LR. II.]

*New Delhi, the 5th November 1965*

**S.O. 3520.**—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Dhanbad, in the industrial dispute between the employers in relation to the Chapui Khas Colliery of Bharat Collieries Ltd. (P.O. Kalipahari, Burdwan) and their workmen which was received by the Central Government on the 1st November, 1965.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT  
DHANBAD

REFERENCE No. 93 OF 1965

In the matter of a reference under Section 10(1)(d) of The Industrial Disputes Act, 1947.

## PARTIES:

Employers in relation to the Chapui Khas Colliery, P.O. Kalipahari, District Burdwan (West Bengal) and their workmen.

## PRESENT:

Shri Raj Kishore Prasad, M.A., B.L.,—Presiding Officer.

STATE: West Bengal

INDUSTRY: Coal.

*Dated, Camp: Patna the 12th October, 1965*

## AWARD

The Ministry of Labour and Employment, Government of India, by its Order No. 6/71/65-LRII, dated the 28th May 1965, referred, under Section 10(1)(d) of the Industrial Disputes Act, 1947, an industrial dispute to this Tribunal for adjudication, existing between the employers in relation to Chapui Khas Colliery, P.O. Kalipahari, District Burdwan (West Bengal), and their workmen as specified in the schedule below:

RuCo.

## SCHEDULE

"(1) Whether the dismissal of Shri Chulli Chamar, Loader of Chapui Khas Colliery was justified?

(2) If not, to what relief is the workman entitled?"

2. On 12th October 1965, a joint petition of compromise duly signed by the representatives of both the parties with a prayer to dispose of the reference in terms of the said joint settlement was received.

3. In terms of the agreement the workman concerned, Shri Chulli Chamar, regretted his mistake and promised that his misconduct will not be repeated and his absence from 1st February 1965, till the date of his resuming duties under this agreement was to be treated as absence without pay for the sake of continuation of service and the management agreed to allow the concerned workman to resume his job as a Loader as per award according to this mutual settlement.

4. I have read the terms of the agreement and, in my opinion, they are quite fair and reasonable in the interest of both the parties and, therefore, I accept the compromise and record it.

5. The reference is accordingly disposed of in terms of the aforesaid compromise, which is marked Annexure "A" and an award in terms of it is passed and this compromise Annexure "A" is made a part of the award.

6. This is the award which I make and submit to the Central Government under Section 15 of the Act.

(Sd.) RAJ KISHORE PRASAD,  
Presiding Officer.

## ANNEXURE "A"

## IN THE COURT OF INDUSTRIAL TRIBUNAL DHANBAD

REF. No. 93/65

With reference to the above we beg to submit that compromise has been arrived between the Management and the workman concerned and therefore we request your goodself to record the following compromise and the case be disposed off accordingly.

- (1) That the workman concerned namely Shri Chulli Chamar regrets his mistake and promise that such misconduct will not be repeated.
- (2) That the absence from 1st February, 1965 till the date of resuming his duty under this agreement will be treated as absence without pay for the sake of continuation of service.



- (3) That the management agrees to allow him to resume his job of a Loader as per award according to this mutual settlement.

L.T.I. of Chulli Chamar.

Witnesses:

1. Sd. JAI NARAIN SINGH.
2. Sd. D. N. PANDEY.

Signature of the Management  
Sd.

Agent  
Chapui Khas Colliery.  
11-10-1965.

The 11th October, 1965.

[No. 6/71/65-LR.II.]

**S.O. 3521.**—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Calcutta, in the industrial dispute between the employers in relation to the Bankola Colliery, P.O. Ukhra, Distt., Burdwan and their workmen which was received by the Central Government on the 2nd November, 1965.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL; CALCUTTA.

REFERENCE No. 60 OF 1964.

PARTIES:

Employers in relation to the Bankola Colliery,  
AND  
Their workmen.

PRESENT:

Shri L. P. Dave.—*Presiding Officer.*

APPEARANCES:

*On behalf of employers.*—Shri D. Narsingh, Advocate.  
*On behalf of workmen.*—Absent.

STATE: West Bengal.

INDUSTRY: Coal Mines.

#### AWARD

The Government of India, Ministry of Labour and Employment, by their Order No. 6/59/64-LR.II dated 18th September, 1964, have referred the industrial dispute existing between the employers in relation to the Bankola colliery and their workmen in respect of the question whether the action of the management in transferring Shri Lalbahadur Singh, Haulege/Pump Khalasi with effect from 20th April 1964 was justified and if not, to what relief he was entitled, for adjudication to this Tribunal.

2. After the written statements of the parties were received, the matter was fixed for hearing but could not be heard because of the applications made on behalf of the workmen. The matter was adjourned like this at the request of the workmen no less than six times. At the time of the last adjournment, I had specifically mentioned that the adjournment was granted as a last chance and no further adjournment would be granted. When the matter came up for hearing before me to-day, no one appeared on behalf of the workmen and I have had no option but to proceed *ex-parte*.

3. The question referred to for adjudication in this matter is about the transfer of a khalasi. Ordinarily, an employer has an inherent right to transfer his workman from one place to another, unless the transfer is not *bona fide* or unless the transfer involves loss to the workman. In the present case, the workman has been transferred in the same post at another place of working but in the same colliery. The employer would have every right to do so and unless it is shown that the transfer was to victimise him or was an instance of fair labour practice or the like, the tribunal would not interfere.

4. The manager of the colliery has been examined and he has stated that they were opening a new place of working and wanted experienced men at that place

and that is the reason for the transfer of this workman. I believe him. It may be noted that along with this workman another workman was also similarly transferred and he has carried out the transfer. It has been alleged in the written statement of the workmen that the sole reason of transfer was to remove the workman from the main pit to a distant place far from his quarters. From the manager's evidence, it appears that the distance between the two places of work is about half a mile and further that the new place of work would be nearer to his quarters than the old place of working. The manager has also denied the allegation of victimisation and the allegation that the transfer was as a result of trade union activities of the workman. I believe the manager.

5. I therefore hold that the transfer of the workman was justified and the workman is not entitled to any relief.

I pass my award accordingly.

DATED,

30th October, 1965.

Sd./- L. P. DAVE,  
Presiding Officer.  
[No. 6/59/64-LR. II.]

### ORDERS

*New Delhi, the 2nd November 1965*

**S.O. 3522.**—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to the Central Bank of India Limited and their workmen in respect of the matter specified in the Schedule hereto annexed;

And, whereas the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal, Dhanbad constituted under section 7A of the said Act.

#### SCHEDULE

Whether the dismissal of Shri P. K. Bhattacharjee, Godown Keeper, Central Bank of India Limited, Bettiah Branch, with effect from the 3rd October, 1962 by the management of Central Bank of India Ltd. Bettiah Branch was justified. If not, to what relief the workman is entitled?

[No. 51(41)/65-LRIV.]

*New Delhi, the 4th November, 1965*

**S.O. 3523.**—Whereas, the Central Government is of opinion that an industrial dispute exists between the employers in relation to the Chinakuri No. 3 Pit Colliery of M/s. Bengal Coal Co., Ltd., P.O. Disergarh, Burdwan and their workmen in respect of the matters specified in the Schedule hereto annexed;

And, whereas, the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal, Dhanbad, constituted under section 7A of the said Act.

#### SCHEDULE

Whether the dismissal by the management of Chinakuri No. 3 Pit Colliery of their workman Shri Ramchandra, CRO Loader with effect from the 24th May, 1965 was an act of victimisation? If so, to what relief is the workman entitled?

[No. 6/95/65-LR. II.]

*New Delhi, the 5th November, 1965.*

**S.O. 3524.**—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to Messrs L. B. Simoes Curchorem, Goa and their workmen in respect of the matters specified in the Schedule hereto annexed;

And, whereas the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of Sub-Section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal Bombay, constituted under section 7A of the said Act.

#### SCHEDULE

- (1) Whether the management of Messrs L. B. Simoes Curchorem, Goa, was justified in terminating the services of Shri Cyril Fernandes, Sample boy, with effect from the 13th March, 1964?
- (2) If not, to what relief is the workman entitled?

[No. 24/39/65-L.R.I.]

H. C. MANGHANI, Under Secy.

*New Delhi, the 4th November 1965*

**S.O. 3525.**—In exercise of the powers conferred by sub-section (1) and (2) of section 8 of the Dock Workers (Regulation of Employment) Act, 1948 (9 of 1948), the Central Government hereby makes the following rules further to amend the Dock Workers (Advisory Committee) Rules, 1962, namely:—

1. These Rules may be called the Dock Workers (Advisory Committee) Amendment Rules, 1965.
2. In rule 8 of the Dock Workers (Advisory Committee) Rules, 1962 to sub-rule (2), the following proviso shall be added, namely:—

“Provided the Committee shall meet at least once a year at one of the Major Ports”.

[No. 528/143/65-Fac.]

K. D. HAJELA, Under Secy.

*New Delhi, the 4th November 1965*

**S.O. 3526.**—In exercise of the powers conferred by sub-section (1) of section 5 of the Mines Act, 1952 (35 of 1952), the Central Government hereby appoints Shri S. B. Bhattacharya, Secretary, Mica Mines Labour Welfare Fund, Rajasthan to be an Inspector of Mines subordinate to the Chief Inspector of Mines.

[No. 28/15/64-MIII.]

B. K. SAKSENA, Under Secy.

#### ERRATA

In the Ministry of Labour and Employment Notification No. 17/2/64/LRIV, dated 16th August, 1965, published as S.O. 2634 in the Gazette of India, Part II Section 3(ii), dated 28th August, 1965, the following corrections may be made:—

1. At page 2904, in line 14, for “Rs. 1500—10—2000” read “Rs. 1500—100—2,000”.
2. At page 2904, in line 15, for “Rs. 1,050—12344040439” read “Rs. 1,050—100—1650”.
3. At page 2905, in line 9, for “Item 18—Excess Flying Pay” read “Item 16—Overseas Operations Allowance”.
4. At page 2909, in line 47, for “Indian Pilots’ Guild” read “Air-India Corporation”.
5. At page 2909, in line 50, for “Air-India Corporation” read “Indian pilots’ Guild”.

**MINISTRY OF WORKS & HOUSING***New Delhi, the 5th November 1965*

**S.O. 3527.**—In pursuance of the provisions of rule 45 of the Fundamental Rules, the President hereby makes the following amendments to the Allotment of Government Residences (General Pool in Faridabad) Rules, 1965, as applied to Faridabad by the notification of the Government of India in the Ministry of Works and Housing No. 3/8/65-Acc-I, dated the 28th May, 1965, and published in the Gazette of India as No. S.O. 1761 of 1965, namely:—

1. These rules may be called the Allotment of Government Residences (General Pool in Faridabad) Amendment Rules, 1965.

2. In the Allotment of Government Residences (General Pool in Faridabad) Rules, 1965,—

(a) the words “or the Delhi Administration” appearing in the first paragraph below the heading “Division XXVI-B” shall be omitted; and

(b) in S.R. 317-B-7, in sub-rule (1), clause (iii) shall be omitted.

[No. 3/25/65(i)-Acc-I.]

**S.O. 3528.**—In pursuance of the provisions of rule 45 of the Fundamental Rules, the President hereby makes the following amendments to the Allotment of Government Residences (General Pool in Nagpur) Rules 1963, as applied to Nagpur by the notification of the Government of India in the late Ministry of Works, Housing and Rehabilitation (Department of Works and Housing) No. 3/7/63-Acc-I, dated the 28th May, 1963, and published in the Gazette of India as No. S.O. 1531 of 1963, namely:—

1. These rules may be called the Allotment of Government Residences (General Pool in Nagpur) Amendment Rules, 1965.

2. In the Allotment of Government Residences (General Pool in Nagpur) Rules, 1963,—

(a) the words “or the Delhi Administration” appearing in the first paragraph below the heading “Division XXVI-B” shall be omitted; and

(b) In S.R. 317-B-7, in sub-rule (1), clause (iii) shall be omitted.

[No. 3/25/65(1)-Acc-I.]

B. M. LAL, Under Secy.

**MINISTRY OF HEALTH***New Delhi, the 4th November 1965*

**S.O. 3529.**—Whereas the Central Government have, in pursuance of the provisions of clause (a) of sub-section (1) of section 3 of the Indian Medical Council Act, 1956 (102 of 1956) nominated, in consultation with the Government of Madhya Pradesh, Dr. R. Subramanian, Director of Health Services, Madhya Pradesh, Indore, to be a member of the Medical Council of India with effect from the 4th July, 1965, *vice* Dr. G. L. Sharma who has expired;

Now, therefore, in pursuance of the provisions of sub-section (1) of section 3 of the said Act the Central Government hereby makes the following further amendment in the notification of the Government of India in the Ministry of Health No. 5-13/59-MI, dated the 9th January, 1960, namely:—

In the said notification, under the heading “Nominated under clause (a) of sub-section (1) of section 3”, for the entry against serial No. 8, the following entry shall be substituted, namely:—

“Dr. R. Subramanian, Director of Health Services, Madhya Pradesh, Indore”

[No. F.4-34/65-MPT]

**CORRIGENDUM***New Delhi, the 5th November 1965*

**S.O. 3530.**—In the notification of the Government of India in the Ministry of Health No. F.27-46/63-MPT, dated the 10th September, 1963, published as S.O. 2683

in Part II—Section 3—Sub-section (ii) at pages 3418 to 3420 of the Gazette of India dated September 21, 1963/Badra 30, 1885, at page 3419.—

In item No. 4, in the last column in the last paragraph, for "the aforesaid qualification", read "the qualification in Ward Administration".

[No. F. 27-46/63-MPT.]

B. B. L. BHARADWAJ, Under Secy.

## MINISTRY OF COMMERCE

*New Delhi, the 26th October, 1965.*

**S.O. 3531.**—In exercise of the powers conferred by sub-clause (1) of Clause 5 of the Cotton Textiles (Export Control) Order, 1949, the Central Government hereby makes the following further amendment in the Notification of the Government of India in the late Department of Commerce, No. 67-CW(25A)/48, dated the 26th March, 1949, namely:—

In paragraph 7 of the said Notification item (z) and the entry relating thereto shall be omitted.

[No. F. 1(2)-Tex(I)/65]

B. K. VARMA, Under Secy.

## TEA CONTROL

*New Delhi, the 5th November 1965*

**S.O. 3532.**—In exercise of the powers conferred by section 4 of the Tea Act, 1953 (29 of 1953), read with rules 4 and 5 of the Tea Rules, 1954, the Central Government hereby appoints Shri P. H. Shaw as a member of the Tea Board until the 31st March, 1966, in the vacancy caused by the resignation of Mr. R. I. Bishop and makes the following further amendment in the notification of the Government of India in the late Ministry of Commerce and Industry No. S.O. 1151 dated the 20th April, 1963 namely:—

In the said notification, for the entry "24. Mr. R. I. Bishop, Wellington Island, Cochin-3," the following entry shall be substituted, namely:—

"24. Shri P. H. Shaw, Manager, M/s. Matheson, Bosanquet & Co. Ltd., Post Box No. 26, Cochin-1."

[No. 7(1)Plant(A)/62.]

B. KRISHNAMURTHY, Under Secy.

## ORDER

### EXPORT TRADE CONTROL

*New Delhi, the 13th November 1965*

**S.O. 3533.**—In exercise of the powers conferred by section 3 of the Imports and Exports (Control) Act, 1947 (18 of 1947), the Central Government hereby makes the following further amendment to the Exports (Control) Order, 1962, namely:—

In Part A of Schedule I to the said Order, after item 21, the following item shall be added:—

"22. Dioscorea roots."

[No. E(C)O, 1962/AM(89).]

P. K. J. MENON, Jt. Secy.

## (Office of the Joint Chief Controller of Imports and Exports)

## (Central Licensing Area)

## ORDER

*New Delhi, the 20th September 1965*

**S.O. 3534.**—Whereas Messrs. Ranjit Engineering Works, Patel Marg, Ghaziabad or any bank or any other person have not come forward furnishing sufficient cause, against Notice No. JCC.I/I/(CLA.)/R-4/65/23, dated 10th May, 1965, proposing to cancel licence Nos. (1) P/SS/1537385/C/XX/19/C-D/19-20 dated 19th December, 1964, for import of Taper Roller Bearing and Roller Bearings for Rs. 706/- (2) P/SS/1537386/C/XX/19/C-D/19-20 dated 19th December, 1964, for import of Ball Bearings for Rs. 266/- (3) P/SS/1537387/C/XX/19-20 dated 19th December, 1964, for import of Ball Bearings for Rs. 250/- (4) P/SS/1537388/C/XX/19/C-D/19-20 dated 19th December, 1964, for import of Ball Bearings for Rs. 250/- (5) P/SS/1539460/C/XX/19/C-D/19-20 dated 6th February, 1965, for import of Combination Scts, Varnier Callipers, Speed Indicator, Two Piccos dies excluding Coventry dies, Adjustable hand reamers, Machine worked cutters, Gear Cutters for 1537/- (6) P/SS/1537066/C/XX/19/C-D/19-20, dated 10th December, 1964 for Graphite Crucibles for Rs. 500/- and (7) P/SS/1537749/C/XX/19/C-D/19-20, dated 30th December, 1964 for Single Cylinder Type Fuel Injection Equipment for Rs. 1012/- granted to said Messrs. Ranjit Engg. Works, Patel Marg, Ghaziabad by the Joint Chief Controller of Imports and Exports (Central Licensing Area) New Delhi, Government of India in the Ministry of Commerce in exercise of the powers conferred by Clause 9 of the Import (Control) Order 1955, hereby cancel the above mentioned licences issued to Messrs. Ranjit Engineering Works, Patel Marg, Ghaziabad.

M/s. Ranjit Engineering Works,  
Patel Marg,  
Ghaziabad.

[No. JCC. I/I/(CLA.)/R-4/65/1639.]

S. K. SEN,

Jt. Chief Controller of Imports and Exports.

## MINISTRY OF EDUCATION

*New Delhi, the 5th November 1965*

**S.O. 3535.**—Whereas by notification of the Government of India in the Ministry of Education No. F.4-9/65C.1, dated the 3rd June, 1965, published in Part II, Section 3, sub-section (ii) of the Gazette of India dated the 12th June, 1965, the Central Government gave notice of its intention to declare the archaeological site and remains specified in the Schedule below to be of national importance;

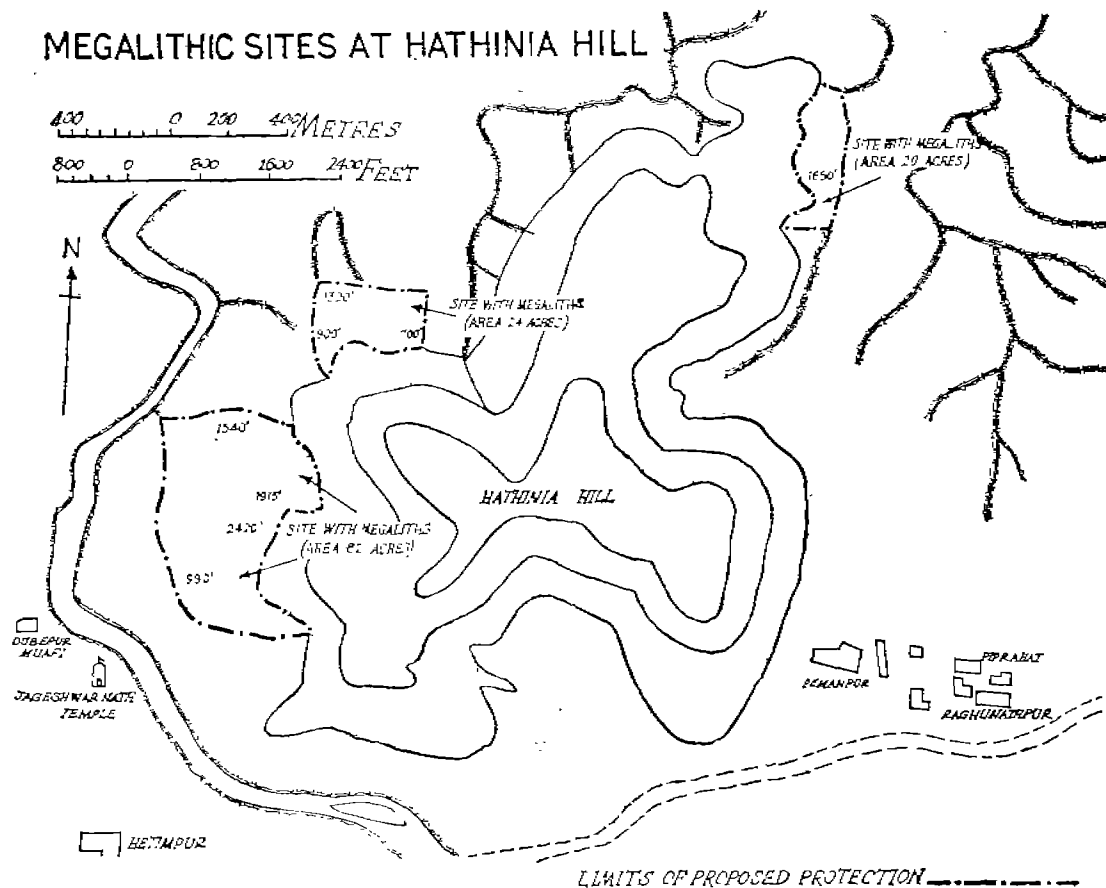
And whereas no objections have been received to the making of such declaration;

Now, therefore, in exercise of the powers conferred by sub-section (3) of section 4 of the Ancient Monuments and Archaeological Sites and Remains Act, 1958 (24 of 1958), the Central Government hereby declares the said archaeological site and remains to be of national importance.

THE SCHEDULE

Sl. No.	State	District	Tehsil	Locality	Name of site and remains	Revenue plot number to be included under protection	Area	Boundaries	Ownership	Remarks
1	2	3	4	5	6	7	8	9	10	11
1	Uttar Pradesh.	Varanasi.	Chakia.	Hathinia Hill, five miles west of Chakia.	Three sites with megaliths on the western and north-eastern toes of the hill comprising of areas as shown in the plan reproduced below.	As shown in the plan reproduced below in Hathia block compartment No. 4(b) as per State Government Forest Department records.	126 acres.	<p><i>North</i>:—Remaining portion of the Hathia block compartment No. 4(b).</p> <p><i>East</i>:—Remaining portion of the Hathia block compartment No. 4(b).</p> <p><i>South</i>:—Remaining portion of the Hathia block compartment No. 4(b).</p> <p><i>West</i>:—Remaining portion of the Hathia block of No. 4(b).</p>	State Government Forest Department.	..

# MEGALITHIC SITES AT HATHINIA HILL



[No. F. 4-9/65 C.I.]  
SHARDA RAO (MRS.),  
Assistant Educational Adviser.



# MINISTRY OF INFORMATION & BROADCASTING

## ORDERS

*New Delhi, the 2nd November 1965*

**S.O. 3536.**—In pursuance of the directions issued under the provisions of each of the enactments specified in the First Schedule annexed hereto, the Central Government after considering the recommendations of the Films Advisory Board, Bombay hereby approved the films specified in column 2 of the Second Schedule annexed hereto in Gujarati to be of the description specified against each in column 6 of the said Second Schedule.

### THE FIRST SCHEDULE

- (1) Sub-Section 4 of the Section 12 and Section 16 of the Cinematograph Act, 1952 (Central Act XXXVII of 1952).
- (2) Sub-Section (3) of Section 5 and Section 9 of the Saurashtra Cinemas (Regulation) Act, 1953 (Saurashtra Act XVII of 1953).
- (3) Sub-Section (4) of Section 5 and Section 9 of the Bombay Cinemas (Regulation) Act, 1953 (Saurashtra Act XVII of 1953).

### THE SECOND SCHEDULE

Sl. No.	Title of the film	Length 35 mm	Name of the Applicant	Name of the Producer	Whether a Scientific film or a film intended for educational purposes or a film dealing with news and current events or a documentary film.
1	2	3	4	5	6
1	Mahitichitra No. 59	268·22 M	Director of Government of Ahmedabad.	Information of Gujarat,	Film dealing with news and current events (For release in Gujarat Circuit only).
2	Package Yojana	298·22 M		Do.	Film intended for educational purposes (For release in Gujarat Circuit only).

[No. F. 24/1/65-FP App. 1032.]

**S.O. 3537.**—In pursuance of the Directions issued under the provisions of the enactments specified in the First Schedule annexed hereto the Central Government after considering the recommendations of the Film Advisory Board, Bombay hereby approves the films specified in column 2 of the Second Schedule annexed hereto in all their language versions to be of the description specified against each in column 6 of the said Second Schedule.

### THE FIRST SCHEDULE

- (1) Sub-Section (4) of the Section 12 and Section 16 of the Cinematograph Act, 1952 (Central Act XXXVII of 1952).
- (2) Sub-Section (3) of Section 5 and Section 9 of the Bombay Cinemas (Regulation) Act, 1953 (Bombay Act XI of 1953).
- (3) Sub-Section (4) of Section 5 and Section 9 of the Saurashtra Cinemas (Regulation) Act, 1953 (Saurashtra Act XVII of 1953).

## THE SECOND SCHEDULE

Sl. No.	Title of the film	Length 35 mm	Name of the Applicant	Name of the Producer	Whether a scientific film or a film intended for educational purposes or a film dealing with news and current events or documentary film.
1	2	3	4	5	6
1	Shoor Mardanche Sarambal.	287.00 M	Directorate of Publicity Government of Maharashtra, Bombay-34.		Documentary film. (For release in Maharashtra Circuit only).
2	Poona-Omr Pride	295.00 M		Do.	Film intended for educational purposes (For release in Maharashtra Circuit only).

[No. F. 24/1/65-FP App. 1033.]

**S.O. 3538.**—In pursuance of the Directions issued under the provisions of the enactments specified in the First Schedule annexed hereto the Central Government after considering the recommendations of the Film Advisory Board, Bombay hereby approves the film specified in column 2 of the Second Schedule annexed hereto in all its language versions to be of the description specified against it in column 6 of the said Second Schedule.

## THE FIRST SCHEDULE

- (1) Sub-Section (4) of Section 5 of the Uttar Pradesh Cinemas (Regulation) Act, 1965 (Uttar Pradesh Act No. 3 of 1956).

## THE SECOND SCHEDULE

Sl. No.	Title of the film	Length 35 mm	Name of the Applicant	Name of the Producer	Whether a scientific film or a film intended for educational purposes or a film dealing with news and current events of documentary film.
1	2	3	4	5	6
	Satyameva Jayate	126.48 M	Director of Govt. of Uttar Pradesh, Lucknow.	Information, Uttar Pradesh,	The film intended for educational purposes (For release in U. P. Circuit only)

[No. F. 24/1/65-FP App. 1034.]

**S.O. 3539.**—In pursuance of the Directions issued under the provisions of each of the enactments specified in the First Schedule annexed hereto, the Central Government after considering the recommendations of the Film Advisory Board, Bombay hereby approves the film specified in column 2 of the Second Schedule annexed hereto in all its language versions to be of the description specified against it in column 6 of the said Second Schedule.

**THE FIRST SCHEDULE**

(1) Sub-Section (3) of Section 5 of the Andhra Pradesh Cinemas (Regulation) Act, 1955 (President's Act 4 of 1955).

**THE SECOND SCHEDULE**

Sl. No.	Title of the film	Length 35 mm	Name of the Applicant	Name of the Producer	Whether a scientific film or a film intended for ed- ucational purposes or a film deal- ing with news and current events or a documentary film.
1	2	3	4	5	6
1	Village Volunteer Force.	304.8 M	Director of Information and Public Relations, Govern- ment of Andhra Pradesh, Hyderabad.		The film intended for educational pur- poses (For release in Andhra Pradesh Circuit only)

[No. F. 24/1/65-FP App. 1035.]

D. R. KHANNA. Under Secy.

**MINISTRY OF INDUSTRY AND SUPPLY**

(Department of Industry)

(Indian Standards Institution)

*New Delhi, the 1st November 1965*

**S.O. 3540.**—In licence No. CM/L-254 dated 26 December 1960 held by M/s Swastik Rubbe Products Ltd., Poona, the details of which are published under S.O. 273 in the Gazette of India Part II, Section 3, Sub-section (ii) dated 23 January 1965, the list of articles is revised as under with effect from 1 November 1965:

Type	Voltage Grade	Conductor
VIR Cables for Fixed Wiring:		
(i) TRS (Tough Rubber Sheathed)	250/440 Volts	} Copper only.
(ii) Weatherproof	650/1 100 Volts	
(iii) Weatherproof	250/440 Volts	} Copper or aluminium
(iv) Braided and compounded	250/440 and 650 1,100 Volts	

[No. MD/12:482]

**S.O. 3541.**—In licence No. CM/L-431 dated 18 July 1962 held by M/s Indian Oxygen Ltd., Calcutta-27, the details of which are published under S.O. 2656 in the Gazette of India, Part II, Section 3, Sub-section (ii) dated 28 August 1965, the list of articles has been revised as under with effect from 1 November 1965:

Covered electrodes for metal arc welding of mild steel of normal penetration type of the following varieties:—

- (a) Ferrospeed
- (b) Vortic
- (c) Radian
- (d) Zodian (I.T.)
- (e) Vordian
- (f) Pressure Vessel
- (g) Ferron No. 5 and
- (h) Vitaspeed

[No. MD/12:676].

D.V. KARMARKAR,  
Joint Director (Marks)

## CENTRAL BOARD OF DIRECT TAXES

### INCOME-TAX

*New Delhi, the 6th November 1965*

**S.O. 3542.**—In exercise of the powers conferred by Section 126 of the Income-tax Act, 1961 (43 of 1961), the Central Board of Direct Taxes hereby makes the following addition to the Schedule annexed to its Notification No. 1 (F. No. 55/233/63-IT), dated the 18th May, 1964:—

After Serial No. 16 in the said Schedule, the following item shall be added:

1	2	3	4	5	6
17.	Employees and pensioners of the Church of Scotland Missionaries Committee resident in the State of Madras and the Union territories of Pondicherry and Karaikal.	4th Incometax Officer, Salaries Circle I, Madras.	Inspecting Assistant Commissioner of Incometax who has been appointed to perform the functions of an Inspecting Assistant Commissioner in respect of the 4th Incometax Officer, Salaries Circle I, Madras.	Appellate Assistant Commissioner of Income Tax who has been appointed to perform the functions of an Appellate Asstt. Commissioner in respect of the 4th Incometax Officer, Salaries Circle I, Madras.	Commissioner of Income tax, Madras II, Madras.

This Notification shall have effect from the 22nd November, 1965.

[No. 6(F. No. 55/53/65-IT.)]

G. M. KULKARNI, Under Secy.